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Situation of human rights in Belarus

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti, submitted in accordance with Human Rights Council resolution 26/25.

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Report of the Special Rapporteur on the situation of human rights in Belarus

Summary

The present report is submitted by the Special Rapporteur on the situation of human rights in Belarus in accordance with Human Rights Council resolution 26/25, focusing on the situation of freedom of expression in Belarus. It contains the main findings of the Special Rapporteur and provides recommendations aimed to support Belarus in complying with stipulations regarding freedom of expression in its national Constitution and its international obligations.

The findings of the report show that for over two decades, the established system of media governance has effectively stifled the exercise of the right to freedom of opinion and information. Media pluralism is absent; Belarus is the only country in Europe with no privately owned nationwide broadcasting outlets. The Government is the direct regulator of all types of media. Media independence is rendered impossible through a permission-based system of registration and arbitrary rules regarding the revoking of licences. Critical expression and fact-finding are curtailed by the criminalization of content that is deemed "harmful for the State", by criminal defamation and insult laws that protect public officials and the President in particular from public scrutiny and by extremism laws that ban reporting on political or societal conflicts. The system-wide violations of the right to freedom of expression are further aggravated by the systematic harassment of journalists who challenge the denial of their rights. Especially worrying in this regard is the adoption in December 2014 of amendments to the law on mass media, which have taken on the last vestiges of free expression, the Internet. Belarus approaches its next presidential elections deprived of the media rights necessary for an informed, free and fair election.

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I. Introduction

A. Background

1. The present report was mandated by the Human Rights Council in its resolution 26/25 and focuses on the situation in Belarus with regard to the right to freedom of expression.

2. The mandate of the Special Rapporteur on the situation of human rights in Belarus was established by the Council in its resolution 20/13 in 2012, when the human rights situation had further deteriorated following the violations committed in the aftermath of the 2010 presidential elections. Key political figures and hundreds of individuals were arrested and sentenced by courts to administrative arrests and fines. Seven of the 10 presidential candidates were detained and four of them sentenced to prison for "mass disturbances".

3. Since the establishment of his mandate, the Special Rapporteur has repeatedly noted that the system of governance — decrees, legislation, policy and practice — was impeding the realization of the constitutional guarantees for the protection of human rights for everyone living in Belarus. No significant progress or political will were discernible in addressing the systemic and systematic disrespect for human rights. In fact, his findings have brought to light a deterioration in the overall situation of human rights in Belarus, which has been documented in his annual reports to the Human Rights Council.

4. It is against this backdrop that the Special Rapporteur presented his first thematic report to the General Assembly, which was focused on human rights in electoral processes in Belarus (A/68/276). In his report, the Special Rapporteur explored the patterns of systemic human rights violations in the context of elections in Belarus, none of which since 1994 had been free or fair (ibid., para. 13).[1]

5. In his second report, presented to the General Assembly at its sixty-ninth session (A/69/307), the Special Rapporteur continued to examine other essential conditions for the effective exercise of the right to vote, namely the situation of civil society and human rights defenders in Belarus, as well as the prevailing environment for the exercise of the rights to freedom of association and assembly.

6. The focus of the present report is on freedom of expression as another central pillar of a democratic society and guarantor of free and fair electoral processes, which is especially crucial in this election year.

7. The findings in the present report bring to light a pattern similar to the Special Rapporteur's findings with regard to the freedoms of association and peaceful assembly (see A/69/307). Media governance in Belarus consists of a three-layer, administrative filter applied to reduce the enjoyment of the right to freedom expression: an overly restrictive permission-based system; a systematic denial of requests for registration and permissions; and punitive sanctioning of activities for which permissions have been refused. Especially worrying in this regard is the adoption in December 2014 of amendments to the law on mass media, which have taken on the last vestiges of free expression, the Internet. The constitutional right to

[1] Refers to elections observed by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, which does not monitor local elections.

freedom of expression is further diminished by the application of criminal defamation and extremism laws; routine harassment of media professionals, journalists and ordinary citizens attempting to make use of that right through administrative sanctions; arrests and detentions, including for unsanctioned activities; and bogus criminalization based on unrelated charges, such as hooliganism.

8. The respect of the right to freedom of expression in Belarus can be judged not only by the number of people confronting the judicial system or the number of independent media outlets closed down or journalists persecuted. These cases are but the tip of the iceberg, occurring when citizens challenge the system of restrictions put into place over two decades ago by the incumbent authorities in Belarus. This entrenched form of governance effectively stifles all particular freedoms that underlie the broader constitutional right of freedom of expression. For generations now, an atmosphere of fear and self-censorship has been created in which citizens refrain from taking part in public debates — in the same way as citizens refrain from making use of the right to organize or to assemble. Any attempt to express a critical opinion is retaliated against. The right to know - that is, access to information of public importance — is systematically denied. Media diversity is non-existent; restricting media pluralism, cutting the free flow of information and outlawing differing opinions and ideas are all essential tools used to curtail all other freedoms, and in particular that of free and fair elections.

B. Methodology

9. In preparing the present report, the Special Rapporteur was guided by the principles of independence, objectivity, impartiality and cooperation with all relevant stakeholders, including the Government of Belarus.

10. The Special Rapporteur has repeatedly contacted the Government since his nomination but has not received any replies. The latest communication was sent following the renewal of his mandate in July 2015, reiterating his request to visit the country and engage in dialogue with the authorities and other stakeholders. Regrettably, the Government has repeatedly refused to recognize the Special Rapporteur's mandate and has failed to grant access to the country.

11. Nevertheless, the Special Rapporteur was able to gather information from primary and secondary sources, including public analytical reports by Belarusian and international civil society groups, media associations and professionals and human rights defenders, research papers, media reports, individual communications and publically available Government statements and reports.

12. The Special Rapporteur is grateful for the cooperation received from many stakeholders living in Belarus. In the present report, he refers to cases that are emblematic of the nature of the human rights violations in Belarus. They do not, however, reflect the full list of allegations submitted to the Special Rapporteur.

II. International human rights framework

13. Basic provisions in international human rights law protect the right to freedom of expression, both in its broad sense and in its particular aspects.

14. Article 19 of the Universal Declaration of Human Rights lays down the foundations of several specific freedoms inherently encompassed in the general right to freedom of expression. By stipulating everyone's right to freedom of opinion, along with the right to express those opinions without interference, it unambiguously provides for the fearless exercise of an individual's right to speak out, that is, the ability to engage in debate on social issues without undue limitations as to what can be said in public. By explicitly including in this right the freedom to seek, receive and impart information, it pins down the citizens' "right to know", that is, their freedom of fact-finding and their free access to governmental data of public importance. Beyond opinions and factual information, article 19 also provides for the freedom of seeking, receiving and imparting of ideas, laying thereby the foundations for artistic and scientific freedoms. Finally, by granting the exercise of all the above liberties through any media and also regardless of frontiers, article 19 defines two fundamental media rights that are indispensable for the exercise of the freedom of expression: media pluralism, or "the right to choose", and the media's right to traverse national boundaries, the most modern embodiment of which is the "right to connect" globally through the diverse media types hosted by the Internet or other means of communication.

15. These freedoms are further spelled out in article 19 of the International Covenant on Civil and Political Rights. Article 19, together with articles 21, 22 and 25 of the Covenant, lay the foundations for the exercise of public freedoms in a society.

16. The fundamental role of freedom of expression as a core element of democracy and indispensable for advancing development goals, both in its own right and as an essential tool for the defence of all other rights, has been repeatedly stressed. Freedom of opinion and expression are the cornerstones of every free and democratic society and a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights (Human Rights Committee, general comment No. 34, para. 3).

17. For people to communicate meaningfully about issues of public importance they must be able to come together publicly and it is for this reason that the enjoyment of freedom of expression is dependent on the extent to which freedoms of assembly and association are guaranteed. The relationship between these freedoms is one of interdependence, in that the exercise of freedoms of association and assembly may be seriously affected by the extent to which freedom of expression is guaranteed; neither are these freedoms separable from the rights guaranteeing human development and social progress.[2]

18. As stipulated in article 21, paragraph 3, of the Universal Declaration of Human Rights the will of the people is to be the basis of the authority of government. The expression of the people's will cannot be limited to what the Declaration calls "periodic and genuine elections", but also entails the ability of the people to participate in public life.

19. General comment No. 34 of the Human Rights Committee makes explicit linkages between articles 19, 21, 22 and 25, stating that freedom of expression is integral to the enjoyment of the rights to freedom of assembly and association, and

[2] See, for example, the report of the Secretary-General on the post-2015 sustainable development agenda (A/69/700), para. 78.

the exercise of the right to vote. The Committee moreover commented that political participation rights would be meaningless without the exchange of ideas (see general comment No. 25).

20. In the context of elections and political communications, the Committee stressed that the full enjoyment of the electoral rights laid down in article 25 depends on the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives, just as it requires the free exercise of the rights to peaceful assembly and association, among other rights (ibid., para. 25).

21. Political parties have the freedom to choose and pursue ideologies, even if these are unpopular with the authorities or the public in general, including the ability to call for a boycott of elections, without fearing retaliation for doing so. The right of political parties to freedom of expression and opinion, particularly through electoral campaigns, including the right to seek, receive and impart information is, as such, essential to the integrity of elections (A/68/299, para. 38).

22. The circumstances under which the right to freedom of expression can be restricted, which should be exceptional and limited, as well as the nature of such restrictions, are clearly laid out in article 19, paragraph 3, of the International Covenant on Civil and Political Rights and have repeatedly been stressed in international human rights law and by international and regional human rights mechanisms.[3] Paragraph 3 lays down specific conditions and it is only subject to those conditions that restrictions may be imposed. Furthermore, as the Human Rights Committee has recalled, the relation between right and restriction and between norm and exception must not be reversed; and restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated (General comment No. 34, paras. 21 and 22; see also general comments Nos. 22 and 27). Paragraph 3 of the Covenant may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.[4]

23. The Human Rights Council, in its resolution 12/16, reiterated that restrictions on the following were not consistent with article 19, paragraph 3, of the Covenant: (a) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups; (b) the free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship; and (c) access to or use of information and communication technologies, including radio, television and the Internet.

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[3] See, for example, the "Joint declaration on universality and the right to freedom of expression", adopted on 6 May 2014 by the United Nations Special Rapporteur on freedom of opinion and expression, the Organization for Security and Cooperation in Europe Representative on Freedom of the Media, the Organization of American States Special Rapporteur for Freedom of Expression and the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information. Available from www.osce.org/fom/118298?download=true.

[4] See Human Rights Committee, communication No. 458/1991, *Mukong v. Cameroon*.

III. National legislation and practice

A. Overview

24. Belarus ranked 157th out of 180 countries in the Reporters Without Borders 2015 world press freedom index,[5] and 195th out of 197 in the 2015 press freedom rankings by Freedom House.[6]

25. Despite guarantees laid down in article 34 of the Constitution of Belarus and international obligations taken on by Belarus in that regard, national laws and bylaws severely restrict freedom of expression in all its major aspects: media pluralism and independence; access to information and unimpeded fact-finding; unhindered debate of public issues; online freedoms; and artistic freedoms.

26. While television remains the main source of information for the public, audiovisual media pluralism is effectively denied through the licensing regulations, resulting in a State-owned broadcasting scene. Of the 262 registered television and radio stations, 178 are State-owned.[7] Four of the six nationwide television channels are directly State-owned and the other two are run by State-owned joint stock companies.[8] The right to choose between diverse outlets as consumers, or to establish such outlets as entrepreneurs, is limited to media genres outside television.

27. Diversity of print media is limited through its subordination to a permission-based process of registration which vests the authorities with broad discretionary powers. The Ministry of Information exercises this power through a procedure of registration based on permissions and sanctions. The constantly changing requirements are complex, awkward and unclear; the decision-making process is not transparent; and the regulations purposefully leave room for arbitrary, selective and politicized implementation.

28. The overwhelming majority of print media are privately owned[9] and most of them are not news providers but mainly advertising or entertainment ventures. According to the Belarusian Association of Journalists, in fact less than 30 print media outlets, including regional ones, cover political or social issues with actual news journalism.[10]

29. The right to freely seek, receive and impart information is restricted not only by the lack of regulations obliging the authorities to disclose data of public importance proactively or on demand, but also by the so-called accreditation rules, which prevent reporting on potentially sensitive topics. Foreign correspondents face additional obstacles in getting accredited and thus to report from the country. Freelance journalists, as well as those working for unregistered media, are refused accreditation, which effectively bans them from working and exposes them to fines and sanctions.

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[5] https://index.rsf.org/#!/index-details/BLR.

[6] https://freedomhouse.org/report/freedom-press-2015/2015-press-freedom-rankings.

[7] www.mininform.gov.by/ru/deyatelnost-ru/.

[8] National State television and radio company (www.tvr.by/eng/televidenie/).

[9] According to the Ministry of Information (www.mininform.gov.by/ru/stat-ru/): 1,148 out of 1,577, as at 1 August 2015.

[10] Index on Censorship, "Belarus: time for media reform", policy paper on media freedom in Belarus (February 2014), p. 7. Available at www.indexoncensorship.org/wp-content/uploads/2014/02/IDX_Belarus_ENG_WebRes_FINAL.pdf.

30. Freedom of actual expression is diminished by countless regulatory tactics and policies limiting what can be said in public: criminalizing content deemed as harming the national interest; criminalizing criticism of public officials and the President through defamation laws; and using extremism laws to ban reporting of sensitive political or societal issues. This is backed by a system of punitive measures, including warnings and the right to terminate media outlets by withdrawing registration for "misuse of the media" or improper content. Law enforcement actors arbitrarily use violence against journalists and carry out arbitrary detentions, especially of those who cover public protests.

31. These structural, system-wide violations of the right to freedom of expression effectively encourage self-censorship; marginalize critical issues from the public debate; and offer public officials protection from scrutiny by the media. Additionally, many social and humanitarian issues, as well as topics related to inequality based on gender, religion, sexual orientation and subculture, receive very limited coverage in the mainstream media.[11]

32. The Special Rapporteur is concerned by signals that the situation is liable to deteriorate further following the adoption of amendments to the law on mass media in December 2014, in particular as a result of the new provisions targeting freedom of expression online.

B. Law on mass media

33. The 2008 law on mass media is the key instrument for regulating matters relating to the media. Other media-related laws, for instance criminal provisions on defamation or extremism, have been continually adjusted to this all-encompassing tool of regulation. The law on mass media introduced a number of insurmountably restrictive measures, inter alia, that all media outlets have to apply for government permission to be registered and that activities (i.e. the licence or registration) of a media outlet can be cancelled by a court upon a request from the Ministry of Information or from several other State institutions. The law on mass media provides that the decision of the courts in such cases may be an administrative procedure, meaning the reasoning is not examined on merit but solely against the formalities laid down in the law. The lack of independence of the judiciary, with prosecutors and judges appointed or dismissed by the executive, is an additional element of concern in this regard.

34. In June 2008, the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE) provided comments on the draft law,[12] raising a number of concerns, including the burdensome systems of media registration and journalist accreditation and the extension of the Government's power to warn, suspend and close down media outlets. Furthermore, OSCE warned that the law did not offer protection of journalists' confidential sources and opened the possibility for restrictive future regulations on Internet-based media. The OSCE legal review also offered a number of recommendations; however, none of them were taken into account in the adopted version of the law. Despite requests by

[11] As pointed out by panellists participating in the IREX Europe and Eurasia media sustainability index related to Belarus for 2014 (www.irex.org/sites/default/files/u105/EE_MSI_2014_Belarus.pdf).

[12] www.osce.org/fom/49860.

OSCE and associations of media professionals in Belarus to hold open discussions on the draft, it was adopted in June 2008 without consultation with civil society.

35. The amendments adopted in 2014 extended and tightened the Government's jurisdiction over registering, licensing, content-monitoring, warning and suspending of all forms of Internet-based communications. It also created a comprehensive register of distributors of information and obliged online information resources to participate in a permission-based registration process.

36. The new regulation places responsibility on the online resources outlet for any material or comment considered to be harmful to the interests of the State and it authorizes Government institutions to issue warnings over content at the will of the institution. Any outlet receiving two or more warnings from the Ministry of Information may be removed from the database and thus lose the right to distribute information. Additionally, the law restricts foreign ownership in any media outlet to 20 per cent of its capital.

37. The amendments have also had an impact on traditional mass media and the freedom of artistic expression. Publishing houses and distributors of printed media, including bookshops, must now register with the Ministry of Information, with all the restrictive consequences associated with that process.

C. Registration and licensing

38. Registration and licensing are key challenges in the law on mass media that hamper media pluralism and independence.

39. Regarding the print press, only a notification-based registration procedure is compatible with international standards, in which a print media outlet informs the authorities that it is starting its business and is then automatically entered into a national register if it provided the minimally necessary data based on a normative list in the law.

40. Articles 11-16 of the law on mass media regulate a permission-based registration and re-registration procedure for the print media, the need for which has repeatedly aroused serious criticism.[13]

41. Article 13 of the law on mass media provides that outlets publishing printed publications with a circulation of more than 299 copies are obliged to register. This entails first registering an editorial board as a legal entity, with a long list of required information, including details about the would-be editor-in-chief, who must have a degree in journalism and at least five years of editing experience. Once this registration is granted, applicants are required to list numerous details about the outlet, including the proposed specialization (topics to be covered), frequency and area of distribution and sources of funding. The law is not normative and allows for broad discretionary powers of the registering authority.

42. Media outlets producing small publications with a circulation of less than 299 copies do not have to register as media outlets, but still have to register as legal entities, which implies renting offices, employing editors and paying taxes, even if the publications are not issued on a regular basis. In April 2014, a court in Smarhon

[13] www.osce.org/fom/24436.

(Grodno region) imposed a fine equivalent to €216 on Vladimir Shulnitsikyi for distributing a small-circulation human rights bulletin, and a court in Vitebsk fined Georgyi Stankevich the equivalent of €500, the maximum penalty foreseen under article 22.9 (2) of the code of administrative procedures, for distributing a bulletin. The Human Rights Committee has established that the requirement for registration of a media outlet with a print run of only 200 copies constituted a violation of freedom of expression.[14]

43. Additional restrictions not provided for in the law were imposed by the Ministry of Information in its decrees Nos. 17 and 18 in October 2009. Even though a company that is termed a "unitary enterprise" can be registered at its founder's home address, the Ministry of Information reportedly in application of these decrees demands from the editorial boards of media outlets that are unitary enterprises to have separate offices in non-residential premises.[15]

44. Article 51 of the law on mass media allows withdrawal of registration of any media outlet after two warnings (or, in some cases, even after one) issued by the Ministry of Information or a prosecutor's office and a few other State entities, for any alleged infringement, even a minor one, which effectively amounts to closing the outlet down.

45. The registration system efficiently filters out any media start-up considered undesirable by the authorities. In the period 2010-2012, the Ministry of Information refused 105 applications for new media outlets and issued 180 official warnings.[16] Since then, however, the number of refusals of registration has decreased, owing also to the diminished number of requests for registration. Only two new non-State publications were registered in 2015.[17]

46. Re-registration is an additional obligation imposed on the print media. Re-registration is required following a decision to suspend the activities of a print media outlet, but also if changes occur to the founding data, even minor ones such as the name of the publication. To re-register requires repeating the whole registration process, which can take months, during which time the outlet is not allowed to publish. Following a presidential decree in June 2005 which banned the use of the word "Belarusian" in non-official publications, several independent newspapers were forced to re-register and, unable to comply with the process, went out of existence.

47. Applying for a broadcasting licence is an even more complicated procedure. Licensing and frequency allocation are direct Government functions.[18] Broadcasting licences can be issued with or without a licensing competition. Broadcasting organizations established by a decision of the President or the Council of Ministers are not subjected to a competitive process and are automatically granted frequencies

[14] Human Rights Committee, communication No. 780/1997, *Laptsevich v. Belarus* (CCPR/C/68/D/780/1997).

[15] Index on Censorship, "Belarus: time for media reform", p. 14.

[16] www.belta.by/society/view/mininform-belarusi-za-2010-2012-gody-napravil-105-otkazov-v-registratsii-smi-67514-2013.

[17] www.mininform.gov.by/ru/stat-ru/.

[18] Ministry of Information (www.mininform.gov.by/ru/licenzirovanie-ru/).

and licences by the national commission on television and radio broadcasting. All others are subjected to a nominal process of competition.[19]

48. According to information received by the Special Rapporteur, no independent broadcasting channel has received a licence in the past 20 years, while existing independent stations have gone out of business. The very last independent broadcaster, Autoradio FM (Avtoradio), was shut down by the authorities in January 2011 (see also para. 65 below). Registered in 1992, it was the first independent radio station in Belarus following the country's independence.

D. Accreditation

49. A further obstacle to media freedom, especially to the right to seek, receive and impart information and ideas through any media and regardless of frontiers (Universal Declaration of Human Rights, art. 19), is the requirement for accreditation as foreseen in article 1 of the law on mass media, which it defines as "granting to a media journalist the right to cover events organized by State authorities, as well as other events occurring on the territory of the Republic of Belarus." In accordance with the law, State accreditation is mandatory for foreign and national journalists and only those journalists working for State-registered media organizations are recognized.

50. In his comment on the draft law in 2008, the OSCE Representative on Freedom of the Media warned that the law completely changed the legal nature of accreditation of journalists, diverting it from the right of the journalist to get accredited to the power of the accrediting authorities to ban any journalist from working in Belarus.[20]

51. Additionally, freelance journalists are banned from practising journalism altogether, as the law recognizes as journalists only those employed by registered media organizations. In March 2015, the European Federation of Journalists sent a letter to the Minister of Information of Belarus demanding the abolishment of this provision.[21]

52. It should be noted that the Human Rights Committee, in paragraph 44 of its general comment No. 34, adopted a definition of journalism, as "a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the Internet or elsewhere".

53. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression emphasized in that regard that under no circumstances should such conditions be imposed by State authorities as preconditions to practise journalism, given that journalism as a profession can only fulfil its role if it has full guarantees of freedom and protection (A/HRC/20/17, para. 6).

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[19] Belarus, Council of Ministers, decree No. 726 (30 May 2003), concerning ratification of the provision on granting rights to terrestrial television and radio broadcasting on the basis of competition.

[20] www.osce.org/fom/32599.

[21] http://europeanjournalists.org/blog/2015/03/12/belarus-efj-reiterates-appeal-to-lift-ban-on-freelance-journalists/.

54. Registration of foreign media outlets and the accreditation of their journalists is a further barrier. European Radio for Belarus and Radio Liberty were allowed to open offices and accredit a certain number of journalists; however, for many years, repeated requests for official accreditation by Radio Razyja and Belsat TV, both based in Poland, have consistently been refused by the Ministry of Foreign Affairs. On 4 September 2014, the Supreme Court prohibited Belsat TV from using the trademark "Belsat" when broadcasting to the territory of Belarus and on the channel website (A/HRC/29/43, para. 84).

55. Journalists are routinely prevented from working, or are sanctioned, based on the fact that they are not accredited.[22] In 2014, the Prosecutor's Office continued to issue warnings to Belarusian journalists working for media registered in a foreign country on the grounds that they had worked without accreditation, including Belsat TV journalists Ales Zalevski and Alexander Denisov, and Andrey Meleshko, a freelance journalist for Radio Razyja (A/69/307, para. 39). On 2 December 2014, Andrei Myaleshka from Grodno was fined 6 million Belarusian roubles, the third fine in 2014 for the "illegal exercise of journalism in Belarus", for his work with Radio Razyja.[23] On 25 September 2014, Maryna Malchanava was fined in Bobruisk for the publication of an article on the website of Belsat TV. On 16 September 2014, police inspected the apartment of journalist Ales Burakou and seized his computer equipment, reportedly following the publication of an article on the website of Deutsche Welle (A/HRC/29/43, para. 85).

56. On 2 July 2015, the Rahačoŭ District Court found freelance journalists Kastus Zhukouski and Natallia Kryvashei guilty of illegally producing media products and fined them 6.3 million roubles each for interviewing people on the street near a shop in Rahačoŭ and producing a video report shown on 14 May on Belsat TV with the title "Sour taste of the crisis. Why does Rahačoŭ condensed milk remain in the warehouses?"[24] This was the seventh court case for Mr. Zhukouski and the fourth for Ms. Kryvashei in 2015.

57. The Belarusian Association of Journalists has noted an increasing number of such penalties since the beginning of 2015. In 2014, 10 independent journalists were officially warned and fined for their affiliation with media outlets that were not officially registered.[25] In the first seven months of 2015 alone, 26 fines were handed down (as at 28 July 2015), with some journalists being fined repeatedly, up to six times, such as in the case of freelance journalist and cameraman Kastus Zhukouski.[26] The Special Rapporteur on the situation of human rights in Belarus is concerned at this increased harassment of journalists through administrative sanctions.

58. In June 2014, the OSCE Representative on Freedom of the Media expressed concern at the increasing number of fines imposed on Belarusian journalists for work without accreditation, stating that: "Accreditation should not be a licence to work and the lack of it should not restrict journalists in their ability to work and express themselves freely" and that "All journalists should have the same

[22] Belarus, law on mass media (http://law.by/main.aspx?guid=3871&p0=H10800427e).
[23] Civic Belarus, "The price of freedom of speech", 11 December 2014.
[24] http://spring96.org/en/news/78267.
[25] http://baj.by/sites/default/files/monitoring_pdf/2362014_mass_media_in_belarus_ru.pdf.
[26] http://baj.by/en/node/28323.

professional rights as journalists employed with registered media outlets, including the right to seek and disseminate information".[27]

59. Access to information is further barred by laws on State secrets and State service, containing loosely defined provisions on how to define a secret. More than 60 different State bodies and institutions have the right to classify information as a State secret, including the Ministry of Information, the Ministry of Culture, the Ministry of Education, the State television and radio company and regional authorities.

60. This and other vague concepts, such as the requirement for compliance with reality (article 49 of the law on mass media), considerations of national interests, criminalization even of obtaining leaked information, criminal defamation laws and the application of anti-extremism laws, all further limit the scope for independent reporting, investigative journalism and sharing of information.

E. Defamation

61. Freedom of expression, and most notably the right to hold opinions without interference (Universal Declaration of Human Rights, art. 19), is curtailed in Belarus by the criminalization of opinion. Six articles of the criminal code provide for criminal liability for defamation: article 188, Libel; article 189, Insult; article 367, Libel in relation to the President of the Republic of Belarus; article 368, Insulting the President of the Republic of Belarus; article 369, Insulting the representative of the authorities; and article 369, Discrediting the Republic of Belarus.

62. International human rights mechanisms have repeatedly called for the decriminalization of defamation and libel and the transferring of such offences to the civil law domain. As noted by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, criminal defamation laws have a disproportionately chilling effect on free expression, paralyse journalistic investigation and generate an atmosphere of intimidation, which constitutes a form of judicial harassment. Criminal prosecution for defamation inevitably becomes a mechanism of political censorship, which contradicts freedom of expression and of the press (A/HRC/20/17, paras. 83-86).[28]

63. The authorities continued to use the crimes of libelling the President and insulting the President against journalists to discourage criticism of government authorities. In June 2013, the correspondent for the Polish newspaper Gazeta Wyborcza and activist of the Polish minority in Belarus, Andrzej Poczobut, was arrested in Grodno and charged with libelling the President for articles published in the Belarusian independent media.[29] In June 2014, criminal charges were brought

[27] OSCE, "OSCE representative calls on Belarusian authorities to repeal accreditation requirements for journalists", 17 June 2014.

[28] Moreover as noted by ARTICLE 19, the practice in many parts of the world is to abuse defamation laws to prevent open public debate and legitimate criticism of wrongdoing by officials. ARTICLE 19, "Defining defamation: principles on freedom of expression and protection of reputation" (London, 2000). Available at www.article19.org/data/files/pdfs/standards/definingdefamation.pdf.

[29] Amnesty International, *Amnesty International report 2013: The State of the World's Human Rights* (London, 2013).

against Ekaterina Sadovskaya for insult to the President of Belarus, after she criticized the unfounded arrest of activists in connection with the Ice Hockey World Championship.[30] In March 2015, criminal charges for libelling the President were brought against a resident of Brest for having decorated the walls of his property with graffiti such as "We built communism, and now we got the crisis" and "There is one way to get around the law — a bribe".[31]

F. Extremism laws

64. The Special Rapporteur on the situation of human rights in Belarus is also concerned that the so-called anti-extremist legislation is used to put pressure on media and journalists. A statement entitled "On counteraction to extremism"[32] contains vague and ambiguous definitions of the terms "extremism" and "extremist materials". In August 2014, the Council of Ministers adopted resolution No. 810, establishing an expert committee to assess information products for signs of extremism. The Special Rapporteur is concerned about the potentially broad interpretations of "extremism" and "extremist materials" both in the text and in the implementation of the resolution, and that the establishment of such a body may lead to more systematic use of this legislation.[33] He furthermore refers to the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression who emphasized that protection of national security or countering terrorism cannot be used to justify restricting the right to freedom of expression unless it can be demonstrated that: (a) the expression is intended to incite imminent violence; (b) it is likely to incite such violence; and (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence (A/HRC/17/27, para. 73).

65. The closure of Avtoradio also stands as an example of the use of extremism laws. The withdrawal from the register was based on a decision of an administrative court, citing "distribution of call for extremist activities", with reference to the call aired by the presidential candidate Andrei Sannikou during the 2010 presidential elections that "the fate of the country is determined not in a kitchen, but on the square".[34] All attempts of Avtoradio to appeal against the decision were unsuccessful, as the courts in such cases consult only State experts.[35]

66. In April 2013, the Oshmyansky district court ruled that the 2011 edition of the album of photographs published by Belarus Press Photo contained extremist materials that deliberately contorted social, economic and political life in the country. Belarus Press Photo is an independent press photography contest that aims to support, promote and develop local photojournalism.[36] All copies were confiscated and destroyed and the contest organizers and one the finalists were

[30] http://baj.by/sites/default/files/monitoring_pdf/2362014_mass_media_in_belarus_ru.pdf.
[31] http://eurobelarus.info/news/society/2015/03/04/zhitelya-bresta-budut-sudit-za-politicheskiy-blog-na-zabore.html.
[32] http://www.pravo.by/main.aspx?guid=3871&p0=H10700203.
[33] Belarusian Helsinki Committee and other, analytical report covering the period July-September 2014. Available at http://belhelcom.org/sites/default/files/ANALYTICAL%20REPORT%20JULY%20SEPTEMBER.pdf.
[34] Avtoradio Shut Down, *Nasha Niva*, 12 January 2011. Available at: http://nn.by/?c=ar&i=48860.
[35] http://www.rferl.org/content/belarus_radio_opposition_ads_off_air/2274257.html.
[36] http://pressphoto.by/?lang=en.

fined. The experts concluded that the images, such as of sporting events, the President's televised address to the nation, anti-government protests, the picture of a protester injured by police and the daily life of ordinary citizens, violated national anti-extremism legislation and should be banned.[37]

G. Restrictions of freedom of expression on the Internet

67. As of 2012, Internet access in Belarus expanded rapidly. In May 2015, the count of Belarusian Internet users was over 6 million.[38] With increasing restrictions offline, the Internet began to serve as the country's only island of free media.[39]

68. The growth of independent online news sources and the rising popularity of social networks prompted restrictive legal and policy moves by the Government of Belarus.

69. The law on mass media of 2009 included a provision on the right of the authorities to regulate activities of media that are distributed via the Internet (although there is no definition of online media in the law). Presidential decree No. 60 signed in February 2010,[40] as well as some 20 different by-laws and governmental decrees adopted in 2009 and 2010, contained attempts to control and limit the activities of Belarusian websites, including by requiring them to move to the national domain zone and be physically hosted on servers located in the country and by requiring Internet cafés and Internet providers to collect and store data on their customers.

70. The December 2014 amendments to the law on mass media developed a broad framework to systematically restrict freedom of expression online. Prior even to the entry into force of the new legislation, several information website sites were blocked in December 2014 without any reason being given.[41] In March 2015, Charter97, Belaruspartisan and Viasna were blocked and in June 2015 an art and lifestyle website, kyky.org, was blocked for "distributing information that can damage national interests", reportedly because of pieces critical to the church and to the lavish Victory Day parades in Minsk.[42]

71. Several moderators of popular opposition pages and groups on VKontakte were arrested in Minsk and Vitebsk on 30 August 2012, and one of its pages, entitled "We are fed up with Lukashenko", with 40,000 users, was hacked and left inaccessible for two days before its activities were restored. The group

[37] In their conclusion, the experts wrote that the general analysis of photographs and captions demonstrated a deliberately contorted presentation of information and facts, and that the album depicted only negative aspects of Belarusian people's daily activities, which from the point of view of the accepted social norms and good morals also humiliated the national honour and dignity of the citizens of Belarus. See http://naviny.by/rubrics/english/2013/04/05/ic_articles_259_181367 and https://cpj.org/blog/2013/04/archaic-court-ruling-in-belarus-as-photo-book-bann.php.

[38] www.e-belarus.org/news/201506201.html and http://euroradio.fm/en/over-60-belarusians-do-not-listen-radio-50-do-not-read-newspapers.

[39] https://freedomhouse.org/report/freedom-net/2014/belarus.

[40] http://www.pravo.by/main.aspx?guid=3871&p0=P31000060&p2=.

[41] See the following websites: www.belapan.by, www.naviny.by, www.belaruspartisan.org, www.charter97.org, www.udf.by, www.21.by, www.gazetaby.com and www.zautra.by.

[42] http://www.rferl.org/content/belarus-art-lifestyle-website-harming-national-interests/27079737.html.

administrators were charged with minor hooliganism offences and sentenced to five and seven days' detention respectively, and their homes were searched and computer equipment confiscated.[43]

72. In December 2013, several activists were detained in connection with the "Stop Tax" online campaign against a new vehicle tax and commanded to remove it from social networks. After the "Stop Tax" group discussed the possibility of holding a protest on the social network VKontakte, the organizer was sentenced to three days in prison for "organizing and holding a mass event" and the administrator of the "Stop Tax" social network in VKontakte was sentenced to 15 days for alleged "disorderly conduct".[44]

73. In February 2014, the blogger Aleh Zhelnov was prosecuted on charges of resistance to authority for posting audio and video on his blog of potentially illegal police action. Mr. Zhelnov had recorded a reception at the police department and posted this recording on the Internet despite orders from an officer on duty to hand over any recording devices.[45]

74. In January 2014, some 4,000 people signed an online petition calling on the authorities to double the pay and improve the working conditions of emergency medical service providers. While the Government pressured the initiators to withdraw the petition and put one of them on unpaid leave, it also agreed to a pay raise for ambulance workers.[46]

H. Violations of the right to freedom of expression online in the context of freedom of assembly

75. Online media outlets have been increasingly affected by a new trend of applying extra-journalistic laws to online activities. The Special Rapporteur on the situation of human rights in Belarus is concerned that the authorities of Belarus are applying the restrictive rules on assembly to also clamp down on freedom of the media on the Internet. Cases involve handing down fines and sanctions for "online picketing", thereby punishing online campaigns, the communications of groups on social media and online information about rallies and pickets. The regulations applied treat these posts as if they were real events taking place in the municipal space and as if the authors had participated in them physically. In several of these cases, however, the charges do not result from law enforcement action on the spot and all of them were initiated by the authorities days after the posts appeared on the Internet. Therefore these procedures cannot serve as protection of the public order, their only rationale being restricting freedom of expression online.

76. An emblematic case of restricting online freedom using unrelated charges is that of Anton Suriapin, a journalism student, who in 2012 was charged with "assisting an illegal crossing of the Belarusian border". A Swedish public relations

[43] Index on Censorship, "Belarus: pulling the plug", policy paper on digital challenges to freedom of expression in Belarus (January 2013), p.11. Available at www.indexoncensorship.org/wp-content/uploads/2013/01/IDX_Belarus_ENG_WebRes.pdf.

[44] http://charter97.org/en/news/2014/1/3/83079; http://spring96.org/en/news/68119; and http://spring96.org/files/reviews/en/2013_review_en.pdf.

[45] https://www.hrw.org/news/2015/04/13/human-rights-watch-upr-submission-unhrc-belarus.

[46] According to the website of Belapan.

firm had dropped hundreds of teddy bears with parachutes over Belarus, in protest of the lack of media freedom in the country,[47] an incident that is denied by the authorities and the official media. When Suriapin posted photographs of teddy bears that had dropped in a garden on his blog,[48] he was arrested and detained by the security services for over a month.

77. Subsequently, sanctions were meted out for expressing solidarity with Anton Suriapin online. A group of Minsk journalists who posted a photo of a teddy bear in front of a wall on an empty street with the caption "No picture — no troubles?" were accused of having engaged in an illegal demonstration, detained and punished based on article 23.14 of the code of administrative procedures, "Violation of rules of public actions".[49] Change.org, an online petition platform, was blocked in Belarus on 10 August 2012, after it published a call to free Anton Suriapin.

78. Similarly, rules restricting freedom of assembly were applied to several cases of posting photographs in solidarity with Ales Bialiatski, while he was in prison. In two separate incidents in January 2013, fines were handed down to three activists and two Christian Democracy party members for publishing photos of themselves on the web, with a portrait of Ales Bialiatski.[50]

79. Tight restrictions on both freedom of assembly and freedom of expression often result in double violations where authorities see an opportunity to restrict both rights. In the case of Evgeny Pugach v. Belarus the Human Rights Committee found violations of both articles 19/2 and 21 of the Covenant.[51] In August 2009, Evgeny Pugach had sought and was denied permission to hold a peaceful picket in Minsk to draw attention to the problems of homeless animals on grounds that it would hinder the work of an enterprise and automobile traffic. The Committee noted that the refusal amounted to a restriction on the exercise of the author's right to impart information and his freedom of assembly and that the authorities had failed to explain how a picket held in a pedestrian zone, outside the premises of the enterprise, would hinder the work of the enterprise, as well as the movement of traffic. The Committee has in a number of cases on Belarus ruled on violations of both freedom of assembly and expression.[52]

80. On 29 July 2015, police detained Yauhen Hadar and his disabled wife, Aza, who tried to stage a picket in front of a department store in Gomel. The picket was filmed by freelance journalists Kanstantsin Zhukouski and Natallia Kryvashei, who had already repeatedly been detained and fined, and face new sanctions in relation to this incident.[53]

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[47] www.indexoncensorship.org/2012/07/belarus-declares-war-on-teddy-bears/.

[48] http://www.bnp.by/shvedy-dejstvitelno-sbrosili-na-belarus-plyushevyx-medvedej-na-parashyutax.

[49] www.youtube.com/watch?t=12&v=elB-QTH0Ycc and www.charter97.org/ru/news/2012/8/8/56549/.

[50] http://spring96.org/en/news/60928.

[51] Human Rights Committee, communication No. 1984/2010, *Pugach v. Belarus*.

[52] See for example, CCPR/C/110/D/1903/2009; CCPR/C/112/D/1929/2010; CCPR/C/113/D/1949/2010; CCPR/C/112/D/1999/2010 and Corr. 1; CCPR/C/112/D/2029/2011; CCPR/C/101/D/1604/2007; CCPR/C/104/D/1772/2008; CCPR/C/108/D/1948/2010 and Corr. 1; and CCPR/C/108/D/1808/2008.

[53] http://spring96.org/en/news/78832.

I. Harassment and use of administrative arrests, detention for unrelated charges, and violence against journalists

81. The Special Rapporteur expresses concern at the ongoing harassment of journalists in the independent print and Internet media with the use of administrative prosecutions, arbitrary arrests, warnings, criminal convictions including for unrelated charges, and violent law enforcement behaviour in public spaces. The persistent recourse to discriminatory judicial methods amounts to a "disciplinary policy" employed to keep at bay the social need for an independent realm of communication.

82. In 2014, the authorities arbitrarily detained at least 28 independent journalists, including on charges such as hooliganism.[54]

83. In June 2012, European Radio for Belarus correspondent Pavel Sverdlov was arrested in Minsk and sentenced to 15 days in prison on hooliganism charges after he exposed security lapses in the city's mass transit system.[55]

84. On 25 November 2014, Alexander Alessin, a military analyst and economic commentator for the weekly newspaper Belorusy i Rynok was arrested and charged with espionage and treason. He was released from prison on 10 December 2014, but was banned from traveling outside Belarus pending investigation and the charges were reclassified as "communicating with foreign intelligence".[56]

85. No progress has been made in the investigation into the deaths of the journalists Dzmitry Zavadski (disappeared on 7 July 2000), Veranika Charkasava (murdered on 20 October 2004), Vasil Hrodnikau (found dead on 18 October 2005) and Aleh Biabenin (found dead on 3 September 2010). The circumstances of their deaths have never been clarified, nor have any of the perpetrators of these crimes been brought to justice.[57]

86. Lack of physical safety of journalists, and impunity for attacks against them, have an intimidating effect on media freedom in Belarus. The most acute issue is police action and arbitrary detentions during mass street actions. Violence against journalists peaked in the context of repressions surrounding the 2010 presidential elections. On 19 December 2010, 24 journalists on reporting duty were detained and 21 were attacked and injured by riot police.[58] The Belarusian Association of Journalists monitored at least 265 cases of detention of journalists in the period 2011-2013, of which 160 took place in 2011 alone, and at least seven instances of use of physical violence by the police.[59] Many happened during peaceful street actions organized by the Revolution through Social Networks movement.[60]

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[54] www.baj.by/sites/default/files/monitoring_pdf/attacks_against_journalists_and_media_staff-2014.pdf.

[55] https://freedomhouse.org/report/freedom-press/2013/belarus.

[56] http://nn.by/?c=ar&i=140103&lang=ru and https://cpj.org/2014/12/belarusian-journalist-released-from-kgb-jail-banne.php#more.

[57] http://baj.by/sites/default/files/monitoring_pdf/belarus_media_freedom_eng_web.pdf, p.23.

[58] www.baj.by/en/node/8896.

[59] www.baj.by/sites/default/files/monitoring_pdf/attacks_against_journalists_and_media_staff_-_short.pdf.

[60] http://belarusdigest.com/story/civil-society-politics-digest-june-24-july-01-2011.

J. Economic restrictions

87. Insufficient advertisement revenues and the ensuing financial vulnerability of the independent media are a result of discriminatory media governance in Belarus, targeting the editorial independence of existing outlets and reducing pluralism by boosting State media and driving independent outlets out of business.[61] The Belarusian economy is 70 per cent State-owned, through either direct ownership or majority shareholding. Besides granting tax breaks and high subsidies to State-owned media companies, the Government also wields the powerful leverage of its influence over the advertising market. All this creates large discrepancies in business power between State and independent media, with revenues barely sufficient to survive for the latter.[62]

88. Subscription to State-owned newspapers, both national and local, is compulsory for employees of State-owned enterprises and organizations. Printing presses, transmitters, newspaper kiosks and telecommunications infrastructure are also largely State-owned, with no equal treatment provided for independent newspapers. In 2013, 11 independent news publications reported restrictions by the State-run retail press distribution and subscription networks, including by the national postal service.[63]

K. Freedom of information in the context of elections

89. In the lead-up to the 2015 presidential election, the repression ahead of and the repression after the presidential election of 2010 need to be kept in mind. The Special Rapporteur has already had the occasion to document human rights violations in the context of the electoral processes in Belarus and to report thereon to the General Assembly (A/68/276).

90. It should be recalled that since 1994, none of the elections observed by OSCE have been qualified as free and fair, falling short of international standards. For almost two decades, Belarus has been the only country in Europe with only pro-government forces present in parliament. No opposition force has been able to make it to parliamentary representation, whether it participated in elections or decided to boycott them. Repeatedly, violations of the right to freedom of expression have marred elections in Belarus, as showed by the findings of the Special Rapporteur and independent observers with regard to the last two national ballots, the presidential elections in 2010 and the parliamentary elections in 2012 (ibid., paras. 39-48). The Human Rights Committee, in a number of cases brought before it, has found violations of the right to freedom of expression in conjunction with elections.[64]

91. Article 5 of the Constitution stipulates that political parties and other public associations have the right to use the State mass media under the procedure determined by the law. While article 46 of the electoral code stipulates that

[61] www.irex.org/sites/default/files/u105/EE_MSI_2014_Belarus.pdf.

[62] IPM Research Centre, "Business in Belarus 2012: status, trends, perspectives" (Minsk, 2012). Available at http://eng.research.by/webroot/delivery/files/english/sme/business2012e.pdf.

[63] Index on Censorship, "Belarus: time for media reform", p. 7.

[64] See, for example, CCPR/C/105/D/1226/2003, CCPR/C/97/D/1392/2005, CCPR/C/100/D/1354/2005, CCPR/C/95/D/1553/2007, CCPR/C/113/D/1992/2010.

candidates for the position of the President and for the Chamber of Representatives have the right to free appearance on State television and the radio,[65] the OSCE Office for Democratic Institutions and Human Rights observation mission to the presidential elections in 2010 noted that all major television stations with nationwide coverage demonstrated a clear bias in favour of the incumbent, devoting 89 per cent of prime time news coverage to his campaign activities and official duties. Other candidates tended to be mentioned collectively and only rarely individually. They were generally portrayed negatively. Similarly, the four State-funded newspapers monitored by the OSCE election observation mission demonstrated a clear bias in favour of the President.[66]

92. Similarly, in observing the 2012 parliamentary elections, the mission OSCE Office for Democratic Institutions and Human Rights noted more than 30 instances where candidates' free airtime and print space was denied or censored and that, although an electoral campaign was ongoing, State-owned media focused only on procedural aspects of the elections and provided extensive reporting on the President's and the Government's activities.[67]

93. In addition to their limited access to the media, opposition candidates are banned from publicly considering a boycott of an election. The Special Rapporteur has previously raised this issue and deplored that electoral code amendments adopted in November 2013 included provisions for the criminalization of calls for a boycott (A/HRC/26/44, para. 128). The Human Rights Committee held that advocating non-cooperation with an electoral exercise must be allowed for any person.[68] The Special Rapporteur reiterates that in the electoral process anybody has the right to have a critical opinion even about the election itself and to call for the boycott of elections.

94. The right to freedom of expression is elementary for citizens to enjoy the right "to take part in the conduct of public affairs" (International Covenant on Civil and Political Rights, art. 25 (a)), not only by being elected or electors, but also by sharing their opinions on the future of their country. The right to freedom of expression is critical for participation in public affairs; as noted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, "the exercise of such rights provides avenues through which people can aggregate and voice their concerns and interests and endeavour to fashion governance that responds to their issues" (A/68/299, para. 6).

95. Access to full information is therefore a key part to the process of shaping electoral opinions also outside of campaign periods. Research into the content published by State-owned and independent news media[69] found that the State media coverage of domestic politics was largely dedicated to the statements of the President, while there was almost no mention of the activities of the political opposition, which received significant coverage only in the independent media, together with reporting on human rights issues. It has to be kept in mind that State

[65] http://www.pravo.by/world_of_law/text.asp?RN=hk0000370.

[66] www.osce.org/odihr/elections/75713?download=true.

[67] www.osce.org/odihr/98146?download=true, p. 14.

[68] See Human Rights Committee, communication No. 927/2000, *Svetik v. Belarus*.

[69] www.indexoncensorship.org/2014/02/belarus-distorted-media-market-strangles-independent-voices/.

media have many times more volume and reach compared with the privately owned independent press.

96. The Special Rapporteur on the situation of human rights in Belarus reiterates his concern at the high number of journalists and media workers detained in the context of the presidential elections in 2010 and that several of them reported serious violations of their procedural rights.[70] In 2011, security forces arrested seven members of the Belarusian Association of Journalists, who were convicted of "participating in mass disturbances" and organizing activities that "violated public order" as a result of their work on presidential campaigns in 2010. The number of detentions of journalists also rose in 2012, around the parliamentary elections.

L. Curtailing artistic, cultural and scientific freedom

97. Restrictions on freedom of expression not only affect civil society activists, journalists and human rights defenders, but also Belarusian intellectuals, writers, artists, musicians and actors if they touch upon social, political and cultural issues in their works.

98. An emblematic case of the repression of freedom of artistic expression is the Belarus Free Theatre founded by Natalia Kalyada, Nikalai Khalezin and Vladimir Shcherban in 2005. The theatre, which had never received official authorization to perform, moved to the United Kingdom of Great Britain and Northern Ireland after the arrest of Natalia Kalyada during public protests following the presidential elections in December 2010. Today the members of the theatre continue to write and perform plays on issues crucial for Belarus, including support of political prisoners, rights of journalists and freedom of expression, sexual minorities and societal issues. They have performed in 42 countries around the world and have received top awards. In Belarus the troupe holds performances secretly in private locations, which are regularly raided by the police.

99. The 2013 law on publishing activities in the Republic of Belarus requires publishers to register with the Ministry of Information, and a licence can be denied or withdrawn if the publisher is found to have been "carrying out licensed activities with aims contradicting the interests of the Republic of Belarus".[71] PEN called this "a threat to literary development".[72] These rules not only instil self-censorship in publishers, but also hamper cultural education and the economic growth of the publishing sector.

100. In September 2013, the Ministry of Information revoked the licence of Lohvinau Publishing House, which published the Belarus Press Photo album (see para. 66 above) for "promoting extremism". Following an appeal, the supreme economic court of Belarus upheld this decision in November 2013. Lohvinau was repeatedly denied registration in 2014 on various technicalities,[73] including for not indicating the correct zip code of the publishing house's address in the application

[70] See http://humanrightshouse.org/Articles/15978.html.

[71] www.pravo.by/main.aspx?guid=3871&p0=H11200008&p1=1.

[72] www.pen-international.org/newsitems/international-writers-and-publishers-associations-call-for-reform-of-publishing-law-in-belarus/#sthash.5Whmja3R.dpuf.

[73] http://house.org/report/freedom-press/2015/belarus.

form,[74] and in February 2015 was fined 976 billion Belarusian roubles ($62,150), which amounts to one year's turnover, for selling books without a licence. The fine was paid through the crowdfunding campaign #SaveLohvinau. Since its establishment in 2000, Lohvinau has released around 700 Belarusian and foreign works of literature, history, politics and art. In a letter addressed to the Minister of Information and the Minister of Communication of Belarus in October 2014, PEN International and the other signatories expressed concern that the law on publishing activities "will be used to censor anyone seeking to challenge, criticise or question the Government, and discourages the publication of radical or satirical books".[75]

101. In November 2013, Valery Bulhakau, editor of the Grodno-based monthly cultural magazine *ARCHE*, fled Belarus after months of harassment that included charges of engaging in "illegal business activities" for selling books at a book fair without receipts and an audit by the Department of Financial Investigations that resulted in the freezing of the magazine's bank accounts. *ARCHE* was a monthly journal about Belarusian history, politics, art and literature which had been publishing since 1998 contributions by Belarusians and foreign researchers. State television reported that he had been charged with "distributing extremist literature".[76]

102. In October 2014, a meet-the-author evening in the city of Grodno to promote Viktor Martsinovich's new novel *Mova* was broken up by the police, who burst into the church building where it was being held and called a halt to this "unsanctioned event".[77] In 2009, his first novel, *Paranoia*, was taken off the shelves in Belarus two days after it was published. In April 2015, 20 copies of the philosopher Tatyana Shchitsova's book *Anthropology. Ethics. Politics* and a compilation of articles from the scientific journal *Topos* were seized on the Belarus-Lithuania border.[78]

103. The singer-songwriter Dzimitry Voitsiushkevich, who has been repeatedly blacklisted, was refused authorization for a performance scheduled in July 2015 in the Moscow House in Minsk where the musician intended to present a programme based on poems by Vladimir Mayakovsky. The Ideology Work, Youth and Culture Department of the Minsk City Executive Committee grounded the refusal on presidential order No. 257, chapter 2, paragraph 5, which denies permission for the organization of concerts aiming at war propaganda or extremist activity, threatening national security, public order, morality, and health, civil rights and freedoms of the citizens.[79]

104. Street art is subjected to the same regulations. The urban art community SIGNAL, which made a portrait of the author Vasil Bykau in Minsk in June 2014 to commemorate his birthday, was fined 18 million Belarusian roubles for an "unauthorized artwork" and the painting was removed.[80]

105. Academic freedoms face restrictions from the Government as well. The European Humanities University, founded in Minsk in 1992, was the only

[74] https://spring96.org/en/news/75173.
[75] www.pen-international.org/wp-content/uploads/2014/10/Belarus-Publishing-Law-letterfinal.pdf.
[76] http://belarusdigest.com/story/arche-authorities-against-belarusian-intellectuals-11951.
[77] http://nn.by/?c=ar&i=137611.
[78] http://en.eurobelarus.info/news/society/2015/06/09/blacklists-in-belarus-pulling-the-strings-of-the-entire-cultural.html.
[79] https://spring96.org/en/news/78458.
[80] http://euroradio.fm/en/officials-painting-bykau-ideological-issue.

Belarusian university offering liberal arts education and open to international cooperation in the academic field. In 2004, the President issued a decree to close the university which was subsequently re-established in Vilnius, and is now known as the University of Belarus in Exile, preserving the same academic principles and its Belarusian orientation.[81] Sixty civil society figures of Belarus signed an appeal calling for the creation of a national university in May 2015 after Belarus joined the Bologna Process and the European Higher Education Area. However, reform processes have been slow and the system remains largely unreformed; State ideology is taught as part of the higher education curriculum in Belarus, and in particular coursework related to history, political science and human rights focus primarily on preserving the status quo.[82]

IV. Conclusions and recommendations

106. **The Special Rapporteur notes that his findings show no tangible signs of improvement with regard to the enjoyment of the right to freedom of expression, despite continuous calls for reforms from civil society in the country and the international community. Restrictive, permission-based registration hampers the development of pluralistic and independent news media, supresses freedom of expression online and stunts artistic creativity in the country. This oppressive regulatory environment is further aggravated by the harassment of any media outlet or person seeking to exercise the right to free speech. Taken together with the abundance of restrictions related to the right to be elected, to vote freely, to association, to peaceful assembly, to an effective remedy and to a fair trial and due process, the systemic violations of the right to freedom of expression contribute to creating an environment that denies the exercise of public freedoms or genuine and meaningful electoral processes.**

107. **According to observers, the 2015 presidential elections will be neither free nor fair, in disregard of international standards. They take place against the backdrop of an unchanged pattern of systemic human rights violations, a media landscape unfit for the free exchange of ideas, the absence of an enabling environment for an independent civil society, and the continued presence of political prisoners, all of which seriously undermine the credibility of statements by the Government of Belarus about the pursuit of democracy. The pre-election period was marked by the adoption of even more stringent legislation that establishes even less democratic rules, and by continued violations of the rights to freedom of expression, association and assembly. In its resolution 29/17, the Human Rights Council regretted that Belarus had not yet taken the necessary steps ahead of the presidential election of October 2015 to reform its electoral legislation, and urged Belarus to ensure that the presidential elections are free, fair, inclusive and peaceful.**

108. **The international human rights mechanisms, including the universal periodic review, have made a number of recommendations to Belarus with**

[81] http://en.eurobelarus.info/news/society/2015/06/09/blacklists-in-belarus-pulling-the-strings-of-the-entire-cultural.html.

[82] http://belarusdigest.com/story/belarusian-national-university-path-forward-22917 and http://belarusdigest.com/story/higher-education-belarus-burdened-soviet-traditions-12951.

regard to the right to freedom of expression and its obligations under article 19 of the International Covenant on Civil and Political Rights. The Human Rights Committee has repeatedly found Belarus to be in violation of these rights. The Special Rapporteur reiterates his concern about the systematic dismissal by Belarus of the views of the Committee and its lack of response to those views, which violate the obligations of the State under the Optional Protocol to the International Covenant on Civil and Political Rights. The Special Rapporteur welcomes the adoption by Belarus of the optional reporting procedure of the Human Rights Committee.

109. **The Special Rapporteur reiterates the relevant thematic recommendations of the universal periodic review, treaty bodies and other special procedures, as well as recommendations contained in his own previous reports to the Human Rights Council and the General Assembly. In addition he recommends the following:**

(a) **To conduct a comprehensive review of the legislation of Belarus pertaining to freedom of expression and bring it in line with the relevant international human rights law, by repealing all provisions which unduly restrict freedom of expression;**

(b) **To ensure that the permission-based print media registration procedure is transformed into a simple, transparent and non-discriminatory notification system administered by an independent body;**

(c) **To eliminate the Government's authority to disallow the print press or the online media to start operation, impose sanctions on the media and initiate cases of closure of media outlets based on its judgements of political content;**

(d) **To repeal the use of accreditation laws as a prerequisite to exercising a media profession and ensure that accreditation is not be used to restrict the right to access information for journalists of both online and offline media;**

(e) **To lift the existing ban on cooperation with foreign media without an accreditation and ensure the accreditation of foreign journalists;**

(f) **To secure the right of reporters of both online and offline news media, including freelance journalists, bloggers and citizen journalists, to operate freely, and ensure that none are denied legal protection and access to financial support;**

(g) **To repeal criminal provisions for journalistic errors, including defamation, insult and breach of secrecy, and introduce civil tort ensuring that civil-law penalties for defamation are proportionate to the harm done;**

(h) **To introduce regulation of the use of the Internet in accordance with international freedom of expression standards;**

(i) **To refrain from using vague legislation based on appraisal of "mentality", such as extremism laws, to unduly restrict freedom of expression;**

(j) **In the electoral process, to take special care to avoid interference with public expression of opinions and hindrance of media rights online and offline, including to observe and monitor the electoral process;**

(k) To promote and protect the right to freedom of artistic and academic expression, both online and offline;

(l) To stop harassment by the judicial authorities of privately owned media and journalists covering the work of non-governmental organizations, and refrain from obstructing Internet-based communications of non-governmental organizations and individual human rights defenders;

(m) To ensure that victims of violations of the right to freedom of expression have an effective remedy, to investigate effectively threats and acts of violence and to bring to justice those responsible in order to combat impunity;

(n) To ensure that privately owned and independent publications are treated in a non-discriminatory way by State institutions and services, such as taxing, financial support, advertising, subscription, distribution and technical supplies;

(o) To engage in broad reforms of the Belarusian media sector, acknowledging that the media in a democracy is an endeavour of civil society to pluralistically scrutinize its Government and the level of fulfilment of human and social rights, to accordingly introduce legislation to de-monopolize the electronic media, to introduce public-service media which is made editorially independent, pluralistic and inclusive through internationally entrenched guarantees, and to allow for a competitive media market in consultation with the professional community and civil society of the country.

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Right of peoples to self-determination

Right of peoples to self-determination

Report of the Secretary-General

Summary

In its resolution 69/164, the General Assembly requested the Secretary-General to submit a report to the Assembly at its seventieth session on the universal realization of the right of peoples to self-determination. The present report is submitted in accordance with that request.

The report provides a summary of the main developments relating to the realization of the right to self-determination within the framework of the activities of the main organs of the United Nations and those of its human rights mechanisms since the submission of the last report (A/69/342).

* A/70/150.

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I. Introduction

1. The General Assembly, in its resolution 69/164, reaffirmed the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination.

2. The present report is submitted in accordance with paragraph 6 of resolution 69/164, in which the Assembly requested the Secretary-General to report on this question at its seventieth session.

3. The report provides a summary of the main developments relating to the realization of the right to self-determination within the framework of the activities of the main organs of the United Nations and of its human rights mechanisms since the submission of the last report (A/69/342). It summarizes the main observations relating to the right to self-determination made by the Secretary-General in his latest report to the Security Council on the situation concerning Western Sahara (S/2015/246). The present report also reviews resolutions of the General Assembly that refer to the right of peoples to self-determination, including in the context of Non-Self-Governing Territories and the use of mercenaries, as well as with regard to the right of the Palestinian people to self-determination.

4. The report refers to the consideration of the issue by the Human Rights Council, in both the provisions of its resolutions and observations made in reports submitted to the Council by special procedures mandate holders.

5. The report also incorporates information on the relevant jurisprudence of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, which is based on their consideration of the periodic reports submitted by the States parties to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in respect of the implementation of the right of all peoples to self-determination guaranteed in common article 1 of the two Covenants.

II. Security Council

6. Further to Security Council resolution 2152 (2014), the Secretary-General submitted the above-mentioned report to the Council on the situation concerning Western Sahara (S/2015/246). That report recalled recent developments in Western Sahara, where the situation during the reporting period remained generally calm. West of the berm, public life proceeded peacefully and included large gatherings at social events in urban areas without major incidents. On the occasions that the United Nations Mission for the Referendum in Western Sahara was able to witness, an extensive presence of Moroccan security forces was noted. A level of discontent was perceptible among the Western Saharan population, illustrated in intermittent demonstrations in Laayoune and other towns. Those events aimed to draw attention to human rights concerns, socioeconomic issues and political demands, including the right to self-determination. The protests were small and the Moroccan security forces dispersed them quickly. On several occasions, credible reports were received about the disproportionate use of force on the part of the security forces and hostile actions on the part of the demonstrators in response.

7. According to the report, investments in the territorial waters adjacent to Western Sahara continued to be a subject of contention between the Government of Morocco and Frente Polisario, given the long-standing dispute regarding the status of Western Sahara. While the Government of Morocco considered that exploration activities had been preceded by wide consultations with the local population and were in conformity with international law, Frente Polisario and Western Saharan civil society organizations spoke out against those activities repeatedly, pointing out that they had not been consulted and that the activities constituted a violation of international law (S/2015/246, para. 62). In that regard, according to the report, it was timely to call upon all relevant actors to recognize the principle that the interests of the inhabitants of these territories were paramount, in accordance with Chapter XI, Article 73, of the Charter of the United Nations (ibid., para. 80).

8. The Secretary-General concluded that growing frustration among Western Saharans and the further decline in the conditions in refugee camps, coupled with the geographic expansion of criminal and extremist networks in the Sahel-Sahara zone, presented increased risks for the stability and security of the region, which would be mitigated by a settlement of the Western Sahara conflict. The Secretary-General reiterated his call for the parties to seriously engage with his Personal Envoy for Western Sahara and to sustain and intensify their efforts to negotiate a mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara, as called for by the Security Council in its resolution 2152 (2014).

9. Having considered the report of the Secretary-General on the situation concerning Western Sahara, the Security Council adopted resolution 2218 (2015) in which it called upon the parties to continue negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations. The Council reaffirmed its commitment to assist the parties in that regard and noted the role and responsibilities of the parties in that respect.

III. General Assembly

10. During the reporting period, the General Assembly adopted a number of resolutions in which it directly addressed the issue of the universal realization of the right of peoples to self-determination. The resolutions concerned Non-Self-Governing Territories, the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, the question of Western Sahara and the right of the Palestinian people to self-determination.

A. Non-Self-Governing Territories

11. Common article 1.3 of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights makes specific reference to States parties having responsibility for the administration of Non-Self-Governing and Trust Territories and requires that they promote the

realization and respect of the right to self-determination, in conformity with the provisions of the Charter of the United Nations.

12. In its resolution 69/98, the General Assembly reaffirmed the right of the peoples of the Non-Self-Governing Territories to self-determination and their right to the enjoyment of their natural resources and to dispose of those resources in their best interest. It also reaffirmed the responsibility of the administering Powers under the Charter to promote the political, economic, social and educational advancement of the Non-Self-Governing Territories. The Assembly expressed its concern about activities aimed at the exploitation of the natural resources that are the heritage of the peoples of the Non-Self-Governing Territories, including the indigenous populations, in the Caribbean, the Pacific and other regions, and of their human resources, to the detriment of their interests, and in such a way as to deprive them of their right to dispose of those resources.

13. In its resolution 69/101 on the question of Western Sahara, the General Assembly expressed support for the process of negotiations initiated by the Security Council to achieve a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara, and commended the efforts undertaken by the Secretary-General and his Personal Envoy in that respect.

14. In its resolution 69/102 on the question of New Caledonia, the General Assembly expressed the view that adequate measures for conducting the consultations on access to full sovereignty, including a just, fair and transparent electoral roll, as provided in the Nouméa Accord, were essential for the conduct of a free and genuine act of self-determination consistent with United Nations principles and practices. In that regard, it called upon the administering Power to consider developing an education programme to inform the people of New Caledonia about the nature of self-determination so that they might be better prepared to face a future decision on the matter. The Assembly urged all the parties involved, in the interest of the people of New Caledonia and within the framework of the Nouméa Accord, to maintain their dialogue in a spirit of harmony in order to continue to promote a framework for the peaceful progress of the Territory towards an act of self-determination in which all options were open and which would safeguard the rights of all sectors of the population, based on the principle that it was for the populations of New Caledonia to choose how to determine their destiny.

15. In its resolution 69/103 on the question of French Polynesia, the General Assembly reaffirmed that it was ultimately for the people of French Polynesia to determine freely their future political status, and called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of French Polynesia of their right to self-determination and to intensify its dialogue with French Polynesia in order to facilitate rapid progress towards a fair and effective self-determination process, under which the terms and timelines for an act of self-determination would be agreed.

16. In its resolution 69/104 on the question of Tokelau, the General Assembly noted the intention of Tokelau to further review its National Strategic Plan in order to determine development and other priorities beyond 2015, including consideration

of the issue of self-determination and how the Territory would address a possible referendum on self-determination in cooperation with the administering Power.

17. In its resolution 69/105 on the question of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands, the General Assembly reaffirmed that, in the process of decolonization, there was no alternative to the principle of self-determination, which was also a fundamental human right. The Assembly further reaffirmed that it was ultimately for the peoples of the Territories themselves to determine freely their future political status in accordance with the relevant provisions of the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the relevant resolutions of the Assembly and reiterated its long-standing call for the administering Powers, in cooperation with the territorial Governments and appropriate bodies of the United Nations system, to develop political education programmes for the Territories in order to foster an awareness among the people of their right to self-determination in conformity with the legitimate political status options.

18. In that regard, the General Assembly reiterated its request that the Human Rights Committee collaborate with the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, within the framework of its mandate on the right to self-determination as contained in the International Covenant on Civil and Political Rights, with the aim of exchanging information.

B. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

19. In its resolution 69/163, the General Assembly condemned mercenary activities in developing countries, in particular in areas of conflict, and the threat they posed to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination. It stressed the importance for the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities. It requested the Office of the United Nations High Commissioner for Human Rights to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and to render advisory services to States that were affected by those activities.

C. The right of the Palestinian people to self-determination

20. The right of the Palestinian people to self-determination, including the right to their independent State of Palestine, was reaffirmed by the General Assembly in its resolution 69/165. In that resolution, the Assembly urged all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.

21. The economic aspect of the right to self-determination, namely, the right of peoples to sovereignty over their natural resources, was reaffirmed by the General Assembly with regard to the Palestinian people in its resolution 69/241.

IV. Economic and Social Council

22. In it resolution 2014/25, the Economic and Social Council recommended a number of measures that specialized agencies and international institutions associated with the United Nations should adopt in support of Non-Self-Governing Territories. The Council reaffirmed that the recognition by the General Assembly, the Security Council and other United Nations organs of the legitimacy of the aspirations of the peoples of the Non-Self-Governing Territories to exercise their right to self-determination entailed, as a corollary, the extension of all appropriate assistance to those peoples, on a case-by-case basis.

V. Human Rights Council

A. Resolutions

23. At its twenty-sixth session, held from 10 to 27 June 2014, the Human Rights Council adopted its resolution 26/27, on human rights and climate change. In that resolution, the Council emphasized that the adverse effects of climate change had a range of implications, both direct and indirect, for the effective enjoyment of human rights, including the right to self-determination.

24. At its twenty-seventh session, held from 8 to 26 September 2014, the Human Rights Council adopted its resolution 27/10, on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. In that resolution, the Council condemned mercenary activities and the threat they posed to the integrity of and respect for the constitutional order of countries and the exercise of the right to self-determination. It also urged all States to take the necessary steps and to exercise the utmost vigilance against the threat posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training, protection and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination.

25. In its resolution 27/21 on human rights and unilateral coercive measures, adopted at the same session, the Council reaffirmed the right of all peoples to self-determination by virtue of which they freely determined their political status and freely pursued their own economic, social and cultural development.

26. At its twenty-eighth session, held from 2 to 27 March 2015, the Human Rights Council addressed the question of the realization of the right of the Palestinian

people to self-determination through its resolutions 28/25, 28/26 and 28/27.[1] In its resolution 28/25, the Council reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity, and the right to their independent State of Palestine. It confirmed that the right of the Palestinian people to permanent sovereignty over their natural wealth and resources was to be used in the interest of their national development, the well-being of the Palestinian people and as part of the realization of their right to self-determination and urged all Member States and relevant bodies of the United Nations system to support and assist the Palestinian people in the early realization of their right to self-determination.

27. In its resolution 28/26, the Council called upon Israel, the occupying Power, to put an end to all of the human rights violations linked to the presence of settlements, especially of the right to self-determination, and to fulfil its international obligations to provide effective remedy for victims. In its resolution 28/27, the Council stressed the need for Israel to withdraw from the Palestinian territory occupied since 1967, including East Jerusalem, so as to enable the Palestinian people to exercise its universally recognized right to self-determination.

28. In its resolution 28/14, on human rights, democracy and the rule of law, the Council reaffirmed the necessity of due respect for sovereignty and the right to self-determination.

B. Special procedures

29. In his third report to the General Assembly (A/69/272), the Independent Expert on the promotion of a democratic and equitable international order discussed the implementation of the right to self-determination as key to the international order envisaged by the Charter of the United Nations.[2]

30. He recalled that self-determination should be seen as a process subject to revision and adjustment, and not as a one-time, extinguishable choice. He distinguished between internal and external self-determination and stated that when human rights were enjoyed by all peoples without discrimination and populations had the feeling that they were in control of their destinies, they would be less disposed to seek external self-determination (see A/69/272, paras. 3 and 13).

31. The Independent Expert surveyed applicable norms and practices and concluded that international peace and security remained at risk as long as peoples had not achieved self-determination, and suffered occupation and exploitation by foreign powers. He stated that the implementation of self-determination was not exclusively within the domestic jurisdiction of the State concerned, but rather was a legitimate concern of the international community (ibid., paras. 10 and 67).

32. The Independent Expert stated that there were multiple ways of exercising self-determination, the implementation of which constituted an important strategy to

[1] The right to self-determination of the Palestinian people was also reaffirmed in Human Rights Council resolution S-21/1. The report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 (A/HRC/29/52) also included references to the right of the Palestinian people to self-determination.

[2] See also the report of the Independent Expert to the twenty-seventh session of the Human Rights Council (A/HRC/27/51).

promote national and international stability and prevent ethnic or religious tensions from developing into breaches of local, regional or international peace. He stated that rather than perceiving self-determination as a source of conflict, armed conflict should be seen as a consequence of the violation of the right to self-determination (ibid., paras. 78 and 79).

33. In paragraphs 42 and 44 of her report to the twenty-seventh session of the Human Rights Council (A/HRC/27/52), the Special Rapporteur on the rights of indigenous peoples addressed the challenges faced by indigenous peoples throughout the world, including the nearly universal disadvantageous social and economic conditions of indigenous peoples as compared with the economic and social conditions of the majority of the population in the societies in which they lived. In that regard, the Special Rapporteur referred to the linkages between indigenous peoples' disadvantaged situations and their history of being denied self-determination, land and resource rights. She also stated that responses aimed at bettering the social and economic situation of indigenous peoples had to take that history into account and attempt to restore to indigenous peoples what had been lost, including sufficient land to ensure a basis for economic development, and the means to exercise their self-determination over their development.

34. The Special Rapporteur on the rights to freedom of peaceful assembly and of association, in paragraph 67 of his report to the twenty-ninth session of the Human Rights Council (A/HRC/29/25), also referred to self-determination. He concluded that an environment that allows for the robust exercise of the rights to freedom of peaceful assembly and of association is essential in ensuring that natural resource exploitation is fair, transparent and accountable and benefits citizens. These rights encourage access to information, public participation and free, prior and informed consent and also highlight the gaps in the enjoyment of other rights related to land tenure, the environment and self-determination.

VI. Human rights treaty bodies

35. Article 1, paragraph 1, of the International Covenant on Civil and Political Rights and article 1, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights affirm the right of all peoples to self-determination. It is in that context that the right to self-determination has been addressed by the Human Rights Committee[3] and the Committee on Economic, Social and Cultural Rights in their consideration of the periodic reports of States parties. The relevant concluding observations adopted during the period under review are highlighted below.

A. Concluding observations of the Human Rights Committee

36. During the reporting period, the Human Rights Committee addressed the right to self-determination, including of indigenous peoples, in two concluding observations, adopted at its 111th and 112th sessions.

37. In paragraph 10 of its concluding observations on the sixth periodic report of Chile (CCPR/C/CHL/CO/6), the Committee expressed concern that the land purchase mechanism for indigenous communities was still not sufficiently robust to

[3] See also Human Rights Committee, general comment No. 12 (see HRI/GEN/1/Rev.9 (Vol. I)).

guarantee indigenous peoples' right to their ancestral lands. It recommended that Chile establish an effective consultation mechanism, in line with the principles set forth in article 27 of the International Covenant on Civil and Political Rights, with a view to obtaining indigenous communities' free, prior and informed consent to decisions about projects that affect their rights. It also recommended that the State party intensify its efforts to guarantee the full enjoyment of the right of indigenous peoples to their ancestral lands.

38. In paragraph 17 of its concluding observations on the fourth periodic report of Israel (CCPR/C/ISR/CO/4), the Committee noted with concern that a number of acts by Israel undermined the enjoyment by Palestinians of a wide range of their Covenant rights, including the right to self-determination. It called on the State party to ensure and facilitate non-discriminatory access of Palestinians in the Occupied Palestinian Territories, including East Jerusalem, to land, natural resources, water and sanitation; to put an end to the practice of expropriation of land and allocation of State land for the expansion of settlements; to cease the construction and expansion of settlements in the Occupied Palestinian Territories, including East Jerusalem and the Occupied Syrian Golan, and all settlement-related activities, including the transfer of its own population thereto, and take measures aimed at the withdrawal of all settlers from those territories; and to reroute the Wall consistent with the Advisory Opinion of the International Court of Justice of 9 July 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory and ensure that Palestinians had full access to their lands and livelihood.

B. Concluding observations by the Committee on Economic, Social and Cultural Rights

39. The Committee on Economic, Social and Cultural Rights addressed relevant aspects of the right to self-determination during its fifty-third, fifty-fourth and fifty-fifth sessions in its concluding observations on Chile, Finland, Guatemala, Nepal, Paraguay, Thailand, Uganda and Venezuela (Bolivarian Republic of) with respect to the rights of indigenous peoples.

40. In paragraph 9 of its concluding observations on the sixth periodic report of Finland (E/C.12/FIN/CO/6), the Committee regretted the lengthy process in the recognition of the rights of the Saami people to use their land and to pursue their traditional livelihoods within their homeland. The Committee was concerned about the lack of adequate measures to address the adverse effect of climate change on the Saami people and to ensure that logging and other activities carried out by private actors did not negatively affect the enjoyment of their economic, social and cultural rights. It urged the State party to strengthen its efforts to adopt the necessary legislative and administrative measures to fully and effectively guarantee the Saami people's rights to own their land and to freely dispose of their natural wealth and resources and to seek the prior, free and informed consent of the Saami people before granting licences to private companies for economic activities on territories traditionally occupied or used by the Saami communities.

41. In paragraphs 6 and 7 of its concluding observations on the third periodic report of Guatemala (E/C.12/GTM/CO/3), the Committee expressed concern that the State party had no effective legal mechanism for recognizing the rights of

indigenous peoples as such to obtain collective land titles. It recommended that the State party incorporate mechanisms for recognizing the rights of indigenous peoples over their traditional lands and their natural resources, and that it continue strengthening measures to ensure their effective enjoyment of their economic, social and cultural rights. The Committee further expressed concern that the indigenous peoples were not effectively consulted, nor was their free, prior and informed consent obtained in the decision-making process concerning the exploitation of the natural resources within their traditional lands. It recommended that the State party urgently establish a legal mechanism for conducting such consultations with indigenous peoples.

42. In paragraph 9 of its concluding observations on the third periodic report of Nepal (E/C.12/NPL/CO/3), the Committee expressed concern at information that indigenous peoples were deprived of their traditionally owned lands, territories and resources due to development projects carried out by the State party without seeking their free, prior and informed consent. It recommended that the State party guarantee the right of indigenous peoples to own, use and develop their ancestral lands, territories and resources, so as to enable them to fully enjoy their economic, social and cultural rights, and to seek their free, prior and informed consent before launching any development project.

43. In paragraph 6 of its concluding observations on the fourth periodic report of Paraguay (E/C.12/PRY/CO/4), the Committee expressed concern at the lack of a legal mechanism for ensuring that prior, free and informed consent was obtained from indigenous peoples in relation to decisions that might affect the exercise of their economic, social and cultural rights. The Committee also noted with concern that a significant number of indigenous peoples either still lacked land or had not obtained legal recognition for their land and that, even when their lands were registered, they might still be victims of forced eviction. In addition, the Committee was concerned at the fact that the State party had not yet legally recognized the right of indigenous peoples to dispose freely of their natural wealth and resources or put in place an effective mechanism to enable them to claim their ancestral lands. The Committee urged the State party to take the legislative and administrative measures needed to ensure that free, prior and informed consent was obtained from indigenous peoples in relation to decisions that might directly affect the exercise of their economic, social and cultural rights and to adopt, without delay, the measures needed, including legal recognition and protection, to ensure that indigenous peoples were able to exercise their right to dispose freely of their lands, territories and natural resources.

44. In paragraph 8 of its concluding observations on the fourth periodic report of Chile (E/C.12/CHL/CO/4), the Committee expressed concern regarding the absence of a legal mechanism guaranteeing that the free and informed prior consent of indigenous peoples was obtained with regard to decisions that might affect the exercise of their economic, social and cultural rights. The Committee also expressed concern regarding the limited protection of the right of indigenous peoples to dispose freely of their wealth and natural resources and of their ancestral lands.

45. In paragraph 9 of its concluding observations on the combined initial and second periodic reports of Thailand (E/C.12/THA/CO/1-2), the Committee expressed concern at the lack of recognition of indigenous peoples by the State party, and invited the State party to reconsider its position and give legal and

political recognition to its indigenous peoples based on self-identification. The Committee recommended that Thailand guarantee the right of indigenous peoples to own, use, control and develop the lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired.

46. In paragraph 13 of its concluding observations on the initial report of Uganda (E/C.12/UGA/CO/1), the Committee expressed concern that many indigenous peoples, including the Benet, Batwa and Pastoralist communities, were denied access to their ancestral lands and were prevented from preserving their traditional way of living. The Committee was also concerned about the inadequate definition of indigenous peoples in the State party's Constitution coupled with a complete absence of information on the actual enjoyment of Covenant rights by indigenous peoples. It recommended that the State party recognize indigenous peoples' rights to their ancestral lands and natural resources and that the State party engage in consultations with indigenous peoples to enable them to give their free, prior and informed consent regarding development activities that had an impact on access to their lands.

47. In paragraph 9 of its concluding observations on the third periodic report of Venezuela (E/C.12/VEN/CO/3), the Committee noted with satisfaction that the right of indigenous peoples to be consulted was formally recognized in the State party's legal framework. The Committee expressed concern at the fact that indigenous peoples were not regularly consulted, with full guarantees, especially before the granting of licences for the exploration and exploitation of natural resources. The Committee recommended that the State party adopt the necessary measures to guarantee that it obtains the free, prior and informed consent of indigenous peoples regarding all decisions that might affect the exercise of their economic, social and cultural rights.

VII. Conclusions

48. **The right of peoples to self-determination is of particular importance to the international community, not least because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights.[4] The majority of the main organs of the United Nations continue to discuss and adopt decisions that refer to that right, including the Security Council, the General Assembly, the Economic and Social Council, the Human Rights Council and other key human rights mechanisms.**

49. **During the reporting period, special procedures of the Human Rights Council discussed the implementation of the right to self-determination as key to the international order envisaged in the Charter of the United Nations and to the enjoyment of human rights, addressed challenges faced by indigenous peoples and noted that an environment that allowed for the robust exercise of the rights to freedom of peaceful assembly and of association was essential to ensuring that the exploitation of natural resources was fair, transparent and accountable to and beneficial for citizens. The promotion of those rights encouraged access to information, public participation and free, prior and**

[4] Human Rights Committee, general comment No. 12, para. 1 (see HRI/GEN/1/Rev.9 (Vol. I)).

informed consent and highlighted the gaps in the enjoyment of other rights relating to land tenure, the environment and self-determination.

50. **During the reporting period, human rights treaty bodies referred to a number of issues relating to the realization of the right to self-determination. On several occasions, they expressed concern about difficulties experienced by indigenous peoples in freely pursuing their economic, social and cultural development and about the lack of consultation with indigenous peoples concerning activities that might have an impact on their natural wealth and resources. As stressed by the United Nations High Commissioner for Human Rights, virtually all indigenous peoples have suffered oppression, marginalization and exploitation in history, and too often their rights, including their right to self-determination, continue to be trampled and ignored today.**[5]

51. **All States have an obligation to promote the realization of the right to self-determination and to respect that right, in conformity with the provisions of the Charter of the United Nations. In addition, as noted by the Human Rights Committee in relation to the International Covenant on Civil and Political Rights, States parties to the Covenant should take positive action to facilitate realization of and respect for the right of peoples to self-determination. Such positive action must be consistent with the States' obligations under the Charter and international law. In particular, States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination.**[6] **The effective implementation of the right to self-determination will contribute to greater enjoyment of human rights, peace and stability.**

[5] Opening remarks by the United Nations High Commissioner for Human Rights at the eighth session of the Expert Mechanism on the Rights of Indigenous Peoples, held in Geneva from 20 to 24 July 2015. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16251&LangID=E.

[6] Human Rights Committee, general comment No. 12, para. 6 (see HRI/GEN/1/Rev.9 (Vol. I)).

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Item 69 (a) of the provisional agenda*
Promotion and protection of the rights of children

Status of the Convention on the Rights of the Child**

Report of the Secretary-General

Summary

In its resolution 69/157, the General Assembly requested the Secretary-General to submit to it at its seventieth session a report containing information on the status of the Convention and on the issues addressed in the resolution, with a focus on the right to education. In the present report the progress achieved is considered, together with the remaining implementation challenges and gaps with regard to the realization of children's right to education. A number of proposals are made on the ways to implement this fundamental human right of children.

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I. Introduction

1. In its resolution 69/157, the General Assembly requested the Secretary-General to submit to the Assembly at its seventieth session a report on the status of the Convention on the Rights of the Child and the issues addressed in the resolution, with a focus on the right to education. The present report is submitted in accordance with that request.

II. Status of the Convention on the Rights of the Child

2. As of 1 July 2015, the Convention on the Rights of the Child[1] had been ratified or acceded to by 195 States. South Sudan acceded to the Convention on 23 January 2015. Two Member States, namely, Somalia[2] and the United States of America, are not yet parties to the Convention.

3. As at 1 July 2015, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict[3] had been ratified or acceded to by 159 States, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography[4] had been ratified or acceded to by 169 States.

4. Additionally, as at 1 July 2015, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure[5] had been ratified or acceded to by 17 States.

III. Reporting under the Convention on the Rights of the Child

5. During the reporting period, the Committee on the Rights of the Child held its sixty-seventh to sixty-ninth sessions.

6. As at 1 July 2015, the Committee had received initial reports from all but two States Parties, namely, Nauru and Tonga. All initial reports submitted have been reviewed by the Committee. In total, the Committee has received 643 reports submitted pursuant to article 44 of the Convention.

7. Furthermore, the Committee has received 103 reports and 1 second periodic report under the Optional Protocol to the Convention on the involvement of children in armed conflict, and 91 reports and 1 second periodic report under the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography.

8. The Chair of the Committee will present an oral report on the work of the Committee and engage in an interactive dialogue with the General Assembly at its seventieth session as a way to enhance communication between the Assembly and the Committee, in accordance with Assembly resolution 69/157.

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[1] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[2] Somalia ratified the Convention in January 2015. The ratification process will be finalized with the deposit of the instruments of ratification with the United Nations.

[3] United Nations, *Treaty Series*, vol. 2173, No. 27531.

[4] Ibid., vol. 2171, No. 27531.

[5] General Assembly resolution 66/138, annex.

IV. Realizing the right to education for all children

A. Human right of children to education

9. The right of the child to education is expressed in articles 28 and 29 of the Convention and is supported by other internationally recognized human rights, such as those set out in article 13 of the International Covenant on Economic, Social and Cultural Rights, article 10 of the Convention on the Elimination of All Forms of Discrimination Against Women, and article 24 of the Convention on the Rights of People with Disabilities. In the Convention on the Rights of the Child, States Parties are called upon to make primary education compulsory and free to all, on the basis of equal opportunity (art. 28). They are also called upon to make secondary education, including general and vocational education, available and accessible to all children, to make higher education accessible to all, and to take measures to encourage regular attendance at school and to reduce drop-out rates. Outlined in article 29 of the Convention are the central aims of education, which include the development of the child's personality, talents and abilities; of respect for human rights; and of respect for his or her parents, cultural identity, language and values; the preparation of the child for responsible life in a free society; and the development of respect for the natural environment. The right to education is guided by the Convention's core principles of non-discrimination (art. 2); the best interests of the child (art. 3); the right to life, survival and development (art. 6); and the right to express views and have them be given due weight (art. 12).

10. A number of global political commitments have sought to advance progress in the universal access to education, on the basis of equality. In the United Nations Millennium Declaration and Millennium Development Goals (General Assembly resolution 55/2), Member States resolved to ensure that by 2015 children everywhere, boys and girls alike, would be able to complete a full course of primary schooling and that girls and boys would have equal access to all levels of education (Goal 2), and to eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015 (Goal 3).[6] In the Dakar Framework for Action (2000), led by the United Nations Educational, Scientific and Cultural Organization (UNESCO), six goals, to be met by all countries by 2015, were specified which further mobilized efforts to strengthen the realization of the right to education, generating new data and monitoring frameworks to track progress in education globally.[7] Together, those efforts resulted in noteworthy progress for children, particularly in increasing access to education and reducing gender disparities.

11. The Incheon Declaration[8] was adopted in May 2015 at the World Education Forum, organized by UNESCO with the United Nations Children's Fund (UNICEF), the World Bank, the United Nations Population Fund (UNFPA), the United Nations Development Programme, UN-Women and the Office of the United Nations High Commissioner for Refugees. The Declaration sets out a vision for education over the next 15 years that reaffirms the commitments of countries and the global community to act with a sense of urgency towards a single, renewed agenda that is

[6] See www.un.org/millenniumgoals/.

[7] See www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/efa-goals/.

[8] See https://en.unesco.org/world-education-forum-2015/incheon-declaration.

holistic, ambitious and leaves no one behind. The Incheon Declaration will be implemented through the Education 2030 Framework for Action, a road map for Governments, to be adopted by the end of 2015.

12. This new vision is reflected in the agreed Sustainable Development Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all and its corresponding targets, and is rooted in a humanistic framework for education and development based on human rights and dignity; social justice; inclusion; protection; cultural, linguistic and ethnic diversity; and shared responsibility and accountability. In the Incheon Declaration, it is reaffirmed that education is a public good, a fundamental human right and a basis for guaranteeing the realization of other rights. It is also aimed at addressing commitments that have yet to be fully met in areas such as quality universal primary and secondary education for all girls and boys.

B. Right to enjoy access to education

Primary and secondary education

13. Reflecting article 28 of the Convention on the Rights of the Child, it is stated in the Dakar Framework for Action, adopted by the World Education Forum in 2000, that primary school shall be compulsory, available and free for all. Secondary education, including technical and vocational skills development, and higher education, shall be available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.[9] The main overlapping dimensions of accessibility as it relates to all forms of education, primary and secondary in particular, include non-discrimination, in law and in fact, and especially towards the most vulnerable groups; physical accessibility; and economic accessibility.[10] The Incheon Declaration is aimed at strengthening educational access through a commitment to providing 12 years of free, publicly funded, equitable, quality primary and secondary education that leads to relevant learning outcomes.[11]

14. As a result of global efforts to achieve full enrolment of all children in primary school, the percentage of children attending primary school in developing regions increased from 83 to 90 per cent between 2000 and 2012[12] and is estimated to reach 93 per cent in 2015.[13] The largest gains have been made in sub-Saharan Africa (from 59 to 79 per cent between 1999 and 2012) and South and West Asia (from 78 to 94 per cent during the same period). This means that the number of out-of-school children has decreased, although an estimated 58 million children are still out of school. Enrolment in lower and upper secondary education has also increased since 1999.[14]

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[9] See Committee on Economic, Social and Cultural Rights, general comment No. 13, on the right to education (article 13 of the Covenant), paras. 14 and 44.

[10] Ibid., para. 6 (b).

[11] See https://en.unesco.org/world-education-forum-2015/incheon-declaration.

[12] The Millennium Development Goals report 2014 (United Nations, New York).

[13] See UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015: Achievements and Challenges* (Paris, 2015).

[14] Ibid.

15. Among the most significant factors behind the increased demand for secondary education is the rising rate of primary education completion in many countries. Globally, the rate of lower secondary completion has increased by 66 per cent in low- and middle-income countries, with the most progress in the East Asia and Pacific region. Girls' education is also central to sustaining social, cultural, economic and political change.[15] Gender disparity is particularly acute at lower secondary level, with only about 56 per cent of countries expected to achieve gender parity in lower secondary education by 2015. Transition from primary to lower and upper secondary school is particularly difficult for girls. Gender-based discrimination and social norms permeate societies and contribute to preventing girls' access to quality secondary education. The most visible of all global mechanisms associated with gender equality is the multi-stakeholder partnership known as the United Nations Girls' Education Initiative, whose policy advocacy agenda has raised awareness of the importance of girls' education and which, together with the Global Partnership for Education, has influenced the integration of gender equity into education sector plans and policies.

16. Evidence continues to show that marginalization compounds inequalities and is a barrier to access to education. Currently, the world's poorest children are four times more likely not to go to school than the world's richest children, and five times more likely not to complete primary school.[16] In some African countries, for example, parents living in the poorest rural communities often finance their children's education themselves (paying a large share of primary teachers' salaries), while those in better-off urban areas benefit from publicly financed teachers.[17] Key factors that have contributed to increasing access to primary school have included abolishing school fees, increasing demand through cash transfers, implementing school feeding programmes, increasing the supply of schools and classrooms, and investing in health and infrastructure.

17. Efforts to eliminate disparities in access for girls have also progressed, with all regions close to achieving gender parity in primary education by 2012.[18] For example, as the country that ranked the lowest in school enrolment of girls, Afghanistan overcame major obstacles to raise the enrolment ratio from less than 4 per cent in 1999 to 87 per cent in 2012.[19] In this case, eliminating long journeys to schools by creating village-based schools in rural areas was found to be among the key factors leading to increased access for girls.[20] Retention, however, remains a significant barrier to gender equality and is reflected in wider and more varied disparities in secondary education,[21] where incidents of violence, sexual abuse, child

[15] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16087&LangID=E.

[16] UNICEF, *The investment case for education and equity* (New York, 2015).

[17] World Bank, *Six steps to abolishing primary school fees: operational guide, school fee abolition initiative* (Washington, D.C., 2009), p. 41.

[18] See The Millennium Development Goals report 2014, pp. 20-23.

[19] See UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13).

[20] See Dana Burde and Leigh Linden, "Bringing education to Afghan girls: a randomized controlled trial of village-based schools," in *American Economic Journal: Applied Economics*, vol. 5, No. 3 (July 2013).

[21] See UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13), pp. 160-163.

marriage,[22] child labour and gender-based social norms often become more prominent.

18. Inclusivity is a fundamental principle of quality education and can also be a major determinant in a child's ability to access educational facilities. Education that is accessible recognizes and is responsive to the different needs of children, including the most marginalized. Children with disabilities, for example, can face a number of barriers to access, such as physical impediments, discriminatory legislation, inadequate understanding of their disability and social stigma.[23] According to some estimates, in Africa, approximately 90 per cent of children with disabilities are currently out of school.[24] In response to this issue, some countries have begun to organize teacher training to support the inclusion of children with disabilities in regular classrooms.[25]

19. The Committee on the Rights of the Child has consistently underscored the need for States to take positive measures to address disparities in access to education for marginalized and vulnerable groups. This is critical, because evidence suggests that, if recent trends continue, universal primary completion in sub-Saharan Africa, for example, will be achieved only in 2069 for the poorest boys and in 2086 for the poorest girls.[26] The Special Rapporteur on the right to education has also highlighted the need for the right to education to be legally enforceable at the national level to make its implementation more effective.

Out-of-school children and alternative models of education

20. Of the 58 million children of primary school age estimated to be out of school, approximately 50 per cent live in conflict-affected areas, although these areas are home to only 22 per cent of the world's primary school-age population.[27] Maintaining the availability of education for children in conflict-affected settings is critical, especially because the consequences are so dire. In the Syrian Arab Republic, for example, the loss of access to education for more than 3 million children, with thousands more unable to enrol, has led to warnings that an entire generation may be lost.[28] The lack of access to education for children in conflict-affected areas may even be a factor in compounding violence.[29]

21. At the World Education Forum held in Dakar in 2000 six goals were adopted, aimed at guaranteeing that all children, youth and adults receive a quality education. This was further spelled out in the Dakar Framework for Action. Since 2000, education in situations of crisis and emergency has been recognized as a new field both in the Education for All Goals and by the General Assembly.[30] The United Nations and international non-governmental organizations that attended the Forum

[22] See A/HRC/26/22.

[23] UNICEF, Children and young people with disabilities fact sheet (New York, May 2013).

[24] See UNICEF, *The investment case for education and equity* (New York, 2015), p. 36.

[25] See www.savethechildren.org.uk/sites/default/files/docs/making-schools-inclusive_1.pdf.

[26] www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/GMR/images/2014/day_of_african_child.pdf.

[27] See The Millennium Development Goals report 2014 (United Nations publication, New York), pp. 16-19.

[28] UNICEF, "No lost generation: protecting the futures of children affected by the crisis in Syria" (New York, January 2014).

[29] See United Nations Peacebuilding Support Office, *Peace dividends and beyond: contributions of administrative and social services to peacebuilding* (New York, 2012).

[30] See General Assembly resolution 64/290.

formed the Inter-Agency Network for Education in Emergencies, which has grown into a vast network of organizations and individuals working in more than 170 countries. The Network's Minimum Standards for Education in Emergencies were a key advance, developed during a year-long process in 2003, with contributions from some 2,250 individuals and more than 50 countries.[31] One of the most significant developments related to education in emergencies has been the cluster approach of the Inter-Agency Standing Committee, which promotes the coordination of a strong education response.[32] At the global level, the Education Cluster Unit and the Education Cluster Working Group focus on strengthening capacity to prepare for, respond to and recover from emergencies, while, at the country level, education clusters have been activated in more than 40 countries.

22. Research suggests that, in contexts affected by conflict, the provision of education can help diffuse tensions and build public confidence, while providing children with the space to attain tangible skills to mitigate conflict, learn and grow in a stable environment.[33] Since 2012, UNICEF, along with national and international partners, has developed and piloted peacebuilding and education programming focused on reaching children and youth who are both in and out of school, with conflict-sensitive education through systemic and individual-level interventions. A new Adolescent Kit for Expression and Innovation is currently in use in four countries to support adolescents' development and competencies as peacebuilders.[34]

23. Humanitarian crises pose a significant threat to access to education, as was seen with the outbreak of the Ebola virus disease in March 2014, which has claimed more than 9,000 lives. Owing to the state of emergency, all schools in Guinea, Liberia and Sierra Leone closed for several months, affecting 5 million children from preschool to the secondary level. UNICEF has worked closely with the Ministries of Education and Health and key partners such as the United States Centers for Disease Control and Prevention, the World Health Organization (WHO) and Save the Children to develop national protocols in the three countries to support the safe reopening of schools, and to help stop the virus spreading by conducting teacher training, using radio programmes and providing distance-learning opportunities.

24. High drop-out rates also remain a major impediment to the realization of universal primary education for all children, with poor children five times more likely to be among the estimated 100 million children who drop out.[35] Contributing factors include children being over-age for their grade owing to late entry; the direct cost of schooling; travelling long distances from home to school; the taxing combination of work and study; and lack of birth registration.[36] There is also an

[31] See UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13), p. 105.

[32] Ibid.

[33] See United Nations Peacebuilding Support Office, *Peace Dividends and Beyond: Contributions of Administrative and Social Services to Peacebuilding* (New York, 2012).

[34] See www.adolescentkit.org.

[35] UNESCO, *Education for All Global Monitoring Report 2015, Education for All 2000-2015* (see footnote 13).

[36] See The Millennium Development Goals report 2014 (United Nations publication, New York); and UNESCO Institute for Statistics and UNICEF, *Fixing the broken promise of education for all: findings from the Global Initiative on Out-of-School Children* (Montreal, 2015).

"opportunity cost", whereby the absence of quality education provision can act as a "push" factor leading to children dropping out of school and entering the labour force before the legal minimum age of employment. To address such challenges, the International Programme on the Elimination of Child Labour, for example, has successfully worked with Governments to develop vocational training, including for girls, as a way to help children transition to formal schooling.[37] In Thailand, UNESCO supports a mobile literacy for out-of-school children project for 4,000 migrant, stateless and ethnic minority children at 60 learning centres to enhance literacy in their mother tongue and numeracy through mobile devices and e-learning games.[38] The Committee on the Rights of the Child has also highlighted the aspect of adaptability, calling on States to modify education to accommodate children and families whose livelihoods are based on pastoralism, fishing, mining and farming, for example.[39] The Committee has called on States to tackle barriers to access, including by addressing the gendered dimension of retention. For girls, this may require promoting positive values and attitudes towards girls' education, providing incentives to offset school and opportunity costs, and addressing child marriage and issues surrounding adolescent pregnancy. UNFPA has reinvigorated country and regional efforts for delivering comprehensive sexuality education in a safe learning environment, enabling adolescents to make informed and autonomous decisions about their sexual and reproductive health, including with regard to preventing HIV, in countries such as Argentina, Azerbaijan, Colombia and Nepal.[40] Sexuality education, as an important component of a child's right to information, is also part of the UNESCO strategy on HIV and AIDS prevention that is being implemented in more than 20 countries in Eastern and Southern Africa, and illustrates the interrelatedness of health with achieving educational outcomes.[41]

25. In response to challenges in access, some countries have committed to meeting the educational needs of out-of-school children and youth whose formal education opportunities were cut short, through alternative, "second chance" and non-formal education programmes.[42] In Bangladesh, the programmes of the non-governmental organization BRAC help bring out-of-school children into the primary education system and prepare them for the secondary level, resulting in more than 97 per cent of BRAC primary-school graduates continuing on to formal secondary school.[43] The provision of financial support for children from poor families is a key strategy for this approach.

Early childhood education

26. A key factor found to increase school enrolment at the primary and secondary levels has been early childhood care and education, which is one of the six goals of the Dakar Framework. From 1999 to 2012, there was an increase of nearly two

[37] See ILO, International Programme on the Elimination of Child Labour, "Combating child labour through education", January 2008.

[38] Submission from UNESCO for the purpose of the present report.

[39] See CRC/C/TZA/CO/3-5, para. 60.

[40] UNFPA, *Operational guidance for comprehensive sexuality education* (New York, 2014).

[41] See www.unesco.org/new/en/hiv-and-aids/our-priorities-in-hiv/sexuality-education/east-and-southern-africa-commitment/.

[42] UNESCO, *Education for All Global Monitoring Report 2015, Education for All 2000-2015* (see footnote 13), pp. 124-126.

[43] R. Banerji, "Second chance programmes in South Asia", background paper for *Education for All Global Monitoring Report 2015*.

thirds, or more than 184 million children, in pre-primary education enrolment worldwide.[44] Many States are developing a multisector approach to early childhood services, encompassing joint initiatives in health, nutrition, child protection and education while providing support to families and care providers.

27. While there is no single pathway or model for early childhood education, the benefits of an integrated approach are well documented. One initiative in Jamaica, for example, provided psychosocial support through home visits to parents of children aged from 9 to 24 months who were living in poverty and were stunted. Twenty-five years later, the study revealed that the children who received those services had 25 per cent higher earnings and were less likely to engage in crime than those in a control group made up of non-stunted peers.[45] In Colombia, children are guaranteed adequate nutrition, pre-primary education and comprehensive health care, resulting in significant progress in reaching low-income children under 5.[46] Implementation remains uneven, however, and is subject to the political willingness of governors and mayors at the local level to secure the provision of services. The development and expansion of early childhood education should therefore be a priority for global investments in education, given the strong returns in educational outcomes and in addressing underlying causes of poverty and inequity.

Broad, relevant and inclusive quality education

28. At the broadest conceptual level, quality education has been generally understood to refer to the "four pillars of education" (learning to know, learning to do, learning to live together and learning to be).[47] As outlined in article 29 of the Convention, education must enable every child to acquire the core academic curriculum and essential life skills.

29. Integral to a quality education curriculum is equipping children with the ability to learn and claim their rights as rights holders. In the Declaration on Human Rights Education and Training, adopted by the General Assembly in December 2011, and the Plan of Action for the first phase of the World Programme for Human Rights Education it is recognized that human rights education is fundamental for the realization of human rights and is also an essential component of quality education. The Special Rapporteur on the right to education has emphasized that achieving knowledge and skills in mathematical and scientific literacy and languages is not the sole reference for quality education, and that human rights values and democratic principles such as inclusion and participation should be at the forefront of any discourse on quality education.[48] UNFPA gives attention to the needs of vulnerable adolescent girls through its Action for Adolescent Girls initiative and programmes on child marriage in several countries where the agency is expanding girls' education initiatives in non-formal settings.

30. UNESCO coordinates the United Nations Decade of Education for Sustainable Development, which has generated many success stories, to be scaled up, with the

[44] UNESCO, *Education for All Global Monitoring Report 2015, Education for All 2000-2015* (see footnote 13).
[45] Ibid.
[46] Ibid.
[47] UNESCO, "Learning: the treasure within", report of the International Commission on Education for the Twenty-first Century, highlights (Paris, 1996).
[48] See A/HRC/20/21.

importance of education now duly recognized in many intergovernmental agreements on sustainable development.[49] In May 2012, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) adopted a human rights, conflict resolution and tolerance education policy, in line with the Convention and the World Programme for Human Rights Education, to empower children to know and exercise their rights. Children's participation is also being realized in UNRWA schools through elected school parliaments that represent the student body.[50]

31. Human rights education is central to quality because it relates to the experiences that children live through on a daily basis. Where curriculums are designed to help develop essential life skills that contribute to future employment and empower girls, children can become more active learners and will be better equipped to play an active role in their communities and societies.[51] UNESCO has taken the lead in advancing global citizenship education, which is aimed at empowering learners of all ages to become engaged and assume active roles to face and resolve global challenges.[52]

A child-friendly, safe and healthy environment

32. A growing number of countries, including Nicaragua, Thailand and Uganda, have adopted a child-friendly school model that provides for a safe, healthy and protective educational environment based on inclusiveness, gender sensitivity, tolerance and dignity, and which involves the participation of students, families and communities.[53] The World Food Programme (WFP) estimates that, while 49 per cent of schoolchildren receive free meals in middle-income countries, the figure for low-income countries is 18 per cent. It was noted in a study on school feeding by WFP in partnership with the World Bank and the Partnership for Child Development that 38 countries had scaled up school feeding in response to crisis since 2008, underscoring its importance as a social safety net.[54]

33. In emergency settings, the Inter-Agency Network for Education in Emergencies addresses the issue of quality education through its minimum standards, which call for, among other things, separate toilets for boys and girls that lock from the inside; mine-risk education and education about the dangers of explosive remnants of war; and clear referral systems in cases of abuse or exposure to violence.[55]

[49] See UNESCO, *Roadmap for implementing the Global Action Programme on Education for Sustainable Development* (Paris, 2014), available from http://unesdoc.unesco.org/images/0023/002305/230514e.pdf.

[50] Submission from UNRWA for the purposes of the present report.

[51] See http://learningforpeace.unicef.org/about/learning-for-peace.

[52] See UNESCO, "Global citizenship education: preparing learners for the challenges of the 21st century"; "Global citizenship education: topics and learning objectives"; and the UNESCO Clearinghouse on global citizenship education, available from www.unesco.org/new/en/global-citizenship-education.

[53] UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13).

[54] See www.wfp.org/content/state-school-feeding-worldwide-2013.

[55] See www.ineesite.org/en/minimum-standards.

Adequate training and support for teachers

34. Adequately training and supporting teachers is fundamental, as support for teachers and teacher quality can have direct implications for learning, and both teachers and students can benefit from reduced teacher/student ratios in the classroom. The tracking of Education for All goal 6 on the quality of education indicates a decrease in pupil/teacher ratios globally between 2000 and 2015, with a decline in 83 per cent of the 146 countries with data at the primary education level.[56] However, particularly where progress has been made in primary school enrolment, some countries have struggled to keep their teaching force. On the basis of current estimates, achieving universal primary education will not be possible unless additional teachers are recruited, with sub-Saharan Africa being the region most in need.

35. Moreover, evidence shows that there is a need to recruit qualified teachers, including female teachers and teachers from other marginalized groups; secure fair remuneration and dignified working conditions; invest in teacher training; and develop and implement codes of conduct that address all forms of violence against children.[57] Governments have attempted to address challenges to teacher deployment in various ways, including centralized deployment; incentives such as housing, financial benefits and accelerated promotion; and local recruitment.[58] In Singapore, for example, top secondary school students received competitive monthly stipends while still in school, in exchange for a commitment of three years of teaching upon graduation.[59]

36. Targeted, school-based support has also been found to strengthen teacher quality in a more consistent manner, through programmes such as the Save the Children Rewrite the Future global campaign to train and support teachers in conflict-affected countries.[60] Innovative use of technologies for delivering in-service training and continuous professional development opportunities, and for supporting teaching in the classroom, has the potential to further motivate and retain teachers in the profession, as demonstrated by the ongoing efforts of UNESCO in sub-Saharan Africa.

Rights-based assessment and measurement of outcomes

37. Assessing learning outcomes is complex and requires further attention at the national and global levels. The number of countries conducting national assessments increased significantly between 1990 and 2013.[61] However, many countries lack

[56] See UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015*, (see footnote 13).

[57] Office of the Special Representative of the Secretary-General on Violence against Children, "Tackling violence in schools: a global perspective — bridging the gap between standards and practice" (New York, March 2012).

[58] A. Chudgar and T. Luschei, "Evolution of policies on teacher deployment to disadvantaged areas", background paper for the *Education for All Global Monitoring Report, Education for All 2000-2015*.

[59] See OECD, "Building a high-quality teaching profession: lessons from around the world", background report for the International Summit on the Teaching Profession (Paris, 2011).

[60] See Save the Children, F. Hardman, Institute for Effective Education, University of York, "A review of Save the Children's global teacher support and development interventions".

[61] See UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13).

solid, regular, inclusive national assessments. Even well-integrated assessments face challenges, such as overburdening teachers and overemphasizing children's literacy and mathematics skills at the expense of other life skills. Ensuring that assessments are free of implicit or cultural bias is another issue that some countries have faced, where tests have been found to implicitly favour children from dominant groups over children who are marginalized.[62]

38. Citizen-led assessments which are aimed at strengthening education policy and practice have recently gained ground and have prompted volunteers to conduct household-based surveys in some developing countries.[63] In India, girls' and boys' basic reading and mathematics skills are assessed for the annual status of education report, initiated by community-based organizations in 2005.[64] Participatory approaches to assessment, including those that directly engage citizens and other stakeholders, may generate greater engagement in the educational process. However, participation alone may not translate into better educational outcomes for children.

C. Respect for children's rights in the learning environment

Respect for identity

39. The Committee on the Rights of the Child has underscored that children do not lose their human rights by virtue of passing through the school gates.[65] In articles 29 and 30 of the Convention, for example, the right of children to their own cultural identity, language and values is recognized. This has been an ongoing challenge for many marginalized groups of children, including indigenous children and children belonging to ethnic minority groups. Many of these marginalized groups of children are unable to access a learning environment that is inclusive, and where they are able to learn in their own language and within their own cultural environment. Because marginalization often occurs on the basis of identity, the right of the child to have his or her identity respected in a learning environment can require specific measures to be put in place. In some countries in Latin America and the East Asia and Pacific region, national language policies that respect indigenous languages have been adopted, and bilingual teacher training colleges and primary-level bilingual education have been instituted.[66]

The right of the child to participate

40. The right to education also implies that schools should be child-friendly in the fullest sense of the term, including with respect to article 12 of the Convention, in which children's evolving capacity to express their views is recognized, and that

[62] See, for example, the UNESCO Education for All global monitoring reports, available from https://en.unesco.org/gem-report/reports.

[63] UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13), pp. 191-192.

[64] See www.prathamusa.org/programs/aser; also UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13), p. 192.

[65] See Committee on the Rights of the Child, general comment No. 1 on the aims of education, para. 8.

[66] See, for example, UNESCO, *Improving the quality of mother tongue-based literacy and learning: case studies from Asia, Africa and South America* (Bangkok, 2008).

these views should be given due weight in accordance with the age and maturity of the child. Schools should promote, as part of the process of learning and experiencing the realization of rights, the participation of the child in school life; the creation of school communities and student councils; peer education and peer counselling; and the involvement of children in school disciplinary proceedings.

Respect for integrity and freedom from violence

41. According to article 19 of the Convention, children have a right to feel safe and be free from violence in all settings, including in school and on the way to and from school. However, an estimated 246 million children experience violence in school every year. Evidence from UNESCO and the United Nations Girls' Education Initiative demonstrates that school-related gender-based violence is a global phenomenon, affecting both boys and girls.[67] Attacks against girls seeking access to education remain particularly problematic.[68]

42. Violence in schools reflects underlying social norms regarding authority and expected gender roles, and seriously undermines efforts to achieve a safe, inclusive and equitable learning environment.[69] Teachers may threaten students with negative assessments of their school achievements or by refusing to issue a school certificate, a practice known as "sex for grades".[70] Children in conflict and emergency settings and those from marginalized groups are particularly at risk of violence and its long-term consequences.[71]

43. In its general comments No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and No. 13 on the right of the child to freedom from all forms of violence, the Committee on the Rights of the Child rejects any justification of violence and humiliation as forms of punishment for children, including corporal punishment. However, only 124 countries have banned corporal punishment in schools to date. In the European Union, only 19 of the 28 member States currently have explicit legislation banning corporal punishment.[72] There is a need for child-friendly approaches to discipline and classroom management that support a protected learning environment.

44. Bullying, whether physical, verbal or relational, is also a growing protection issue that sometimes affects specific vulnerable groups, including children with disabilities; children affected by migration; asylum-seekers or refugees; indigenous

[67] See United Nations Girls' Education Initiative, policy paper 17, "School-related gender-based violence is preventing the achievement of quality education for all" (March 2015), pp. 2-3; and M. Dunne et al., *Gendered School Experiences: The Impact on Retention and Achievement in Botswana and Ghana* (United Kingdom Department for International Development, London, 2005).

[68] See United Nations Girls' Education Initiative, *Background paper on attacks against girls seeking to access education*, available from www.ohchr.org/Documents/Issues/Women/WRGS/Report_attacks_on_girls_Feb2015.pdf.

[69] Plan International, *A girl's right to learn without fear: working to end gender-based violence at school* (Woking, United Kingdom, 2013).

[70] See L. Antonowicz, "Too often in silence" a report on school-based violence in West and Central Africa (UNICEF and others, March 2010), p. 5.

[71] See S. Walker and others, "Child development: risk factors for adverse outcomes in developing countries" *The Lancet*, vol. 369, No. 9556 (2007).

[72] See www.endcorporalpunishment.org/assets/pdfs/briefings-regional/EU%20briefing%20May%202015%20FINAL.pdf.

children or ethnic, racial, linguistic, cultural or religious minorities; and lesbian, gay, bisexual, transgender and intersex children and youth. The Committee asserts that "a school which allows bullying or other violence and exclusionary practices to occur is not one which meets the requirements of article 29 (1).[73] UNFPA supports work with young men and boys on women and girls' rights and through advocacy and implementation of comprehensive sexuality education.[74]

45. There have been a number of innovative, programmatic interventions aimed at violence prevention and response within local contexts. For example, Raising Voices, a non-profit organization based in Kampala, works towards the prevention of violence against women and children and has developed a Good School Toolkit aimed at reducing physical violence by school staff against primary school students, through helping teachers establish a positive and non-violent school culture and disciplinary methods.[75] In Honduras, the Ministry of Education has developed School Regulations for Reduction and Prevention of All Forms of Violence in Centres of Education to address systemic violence against children, including in and around schools.

Protection of schools from attack

46. In contexts affected by armed conflict, attacks against schools constitute a grave violation against children under Security Council resolutions 1612 (2005) and 1998 (2011), and trigger mandatory monitoring and reporting to the Security Council if and when they occur. As was noted in the 2014 annual report of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, the right to education is often gravely affected by attacks on, and the widespread military use of, schools and by attacks and threats of attacks against teachers (see A/HRC/28/54). The Office of the Special Representative, UNESCO, UNICEF and WHO issued a guidance note on attacks on schools and hospitals to strengthen monitoring, reporting and response to such violations.[76] The Special Representative of the Secretary-General for Children and Armed Conflict, the United Nations Special Envoy for Global Education, the Special Rapporteur on the right to education, the Committee on the Rights of the Child, UNICEF, UNESCO and the Global Coalition to Protect Education from Attack have all called for stronger accountability measures to protect schools from attack, including making the prohibition clear in national law, training military officers on their obligations not to use schools, and prosecuting individuals associated with, or responsible for, attacks on schools. In emergency settings, the Minimum Standards of the Inter-Agency Network for Education in Emergencies call for minimization of the use of educational facilities as temporary shelters, stating that they should be used only as a last resort, and with agreement on a date for returning the educational facility to its original function.

47. Significant efforts to protect the right to education for children have been made at the country level in response to attacks on schools. During the conflict in

[73] See Committee on the Rights of the Child, general comment No. 1 on the aims of education, para. 8.

[74] Submission from UNFPA for the purposes of the present report.

[75] See http://raisingvoices.org/good-school/.

[76] See S/RES/1998 (2011); and Office of the Special Representative of the Secretary-General on Children and Armed Conflict, "Protect schools and hospitals: guidance note on Security Council resolution 1998" (May 2014).

Nepal, for example, communities, with the support of UNICEF, established the Schools as Zones of Peace initiative, which engaged political actors and armed groups more directly through agreements to respect a code of conduct that was established at the school, village and district levels. Ongoing advocacy to enforce the code of conduct resulted in fewer school closures and fewer incidents of misuse of schools by parties to the conflict.[77]

V. Ways forward

48. The following recommendations may serve as a broad frame of reference for the continuing work of Governments, in cooperation with children and their communities, civil society, the private sector and relevant United Nations, regional and other human rights mechanisms, as well as with OHCHR, UNICEF, UNESCO and other United Nations entities, to further enhance implementation of the right to education:

Strengthen the right to education within national legal, policy and regulatory frameworks

49. The right to education for many children is still precarious at best and must be secured and enforceable within national legal frameworks. This requires strong national legal and policy frameworks that lay the foundation and conditions for the delivery and sustainability of quality education. Moreover, effective legal instruments must address the multiple dimensions of inequality, particularly for those left furthest behind. Such legislation must also secure the right of the child to be free from all forms of violence, with children entitled under national law to seek redress for violations of their rights.[78] It is equally necessary to secure adequate human and budgetary resources to ensure effective enforcement and monitoring of progress.[79]

50. In his 2011 report on the promotion of equality of opportunity in education, the Special Rapporteur stated that a strong regulatory framework for the public and private education systems grounded in the principle of equality of opportunity provides the essential basis for the establishment of an entire range of programmes and policies aimed at ensuring equality of opportunity (see A/HRC/17/29, para. 72). Prevailing disparities, he underscored, must be given special consideration and policy measures must make learning accessible for the most marginalized and vulnerable.

[77] See http://resourcecentre.savethechildren.se/sites/default/files/documents/4541.pdf; and www.protectingeducation.org/sites/default/files/documents/schools_as_zones_of_peace_szop_education_for_stabilization_and_peace_building_in_post-conflict_nepal.pdf.

[78] For example, the Special Rapporteur points to the landmark United States Supreme Court Case, *Brown v. Board of Education* (1954) that formally ended racial segregation in schools, and which has subsequently provided a legal basis for challenging racial inequality. See A/HRC/23/35.

[79] See Office of the Special Representative of the Secretary-General on Violence against Children, *Tackling violence in schools: a global perspective — bridging the gap between standards and practice* (New York, March 2012), p. 47.

Strengthen and integrate accountability and oversight mechanisms at all levels, including for private providers

51. Accountability and oversight mechanisms are essential for tracking learning outcomes, inequities in access, completion rates, effective resource allocations, teacher performance and other aspects of quality education.[80] As recommended by the Committee on Economic, Social and Cultural Rights, States parties must closely monitor education — including all relevant policies, institutions, programmes, spending patterns and other practices — so as to identify and take measures to redress any de facto discrimination. Educational data should be disaggregated by the prohibited grounds of discrimination.[81] The right to education should be incorporated into legislation and regulations, and, where these exist, accessible child-sensitive counselling, reporting and complaint mechanisms should be put in place.[82] This includes strengthening community-based accountability mechanisms such as school governing bodies, parent-teacher associations and teachers' unions to make them more effective contributors to quality education. Training and capacity-building for judges and lawyers to address claims should also be undertaken. Independent national human rights institutions and ombudspersons for children should be empowered to monitor and investigate complaints and follow up on progress. These functions must be adequately financed, in line with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).[83]

Improve and monitor quality

52. The realization of the right to education necessitates States and the international community at large ensuring that no child leaves school unequipped to face life's challenges. Quality education for all children requires them to learn literacy, science, mathematics and technology. However, children must also be taught the life skills necessary to make well-balanced decisions; peacefully resolve conflicts; and develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents, and other abilities that will enable them to pursue their options in life.

53. A common framework at the national and international levels that defines, measures and monitors the quality of education is essential. Learning outcomes should be monitored through national and regional assessments. Learning and achievement gaps must be identified and addressed through targeted interventions so that all children, including the most marginalized and vulnerable, enjoy quality education.

[80] See UNESCO, *Education for All Global Monitoring Report 2009, Overcoming Inequality: Why Governance Matters* (Paris, 2008).

[81] Committee on Economic, Social and Cultural Rights, general comment No. 13 , para. 37.

[82] See Special Representative of the Secretary-General on Violence against Children and the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, "Safe and child sensitive counselling, complaint and reporting mechanisms to address violence against children" (September 2012), p. 22.

[83] General Assembly resolution 48/134, annex.

Improve access to early childhood education

54. Children have the right to receive the support they need for their development, and evidence shows that investment in early learning and development creates a tremendous return in health, educational and other human capital outcomes later on.[84] Pre-primary enrolment has increased, but inequitably, disproportionately benefiting children in wealthier, urban areas. Expanding access to early childhood development, care and pre-primary education, whether formal or informal, is critical to strengthening development learning outcomes and reducing inequity.

Expand inclusive, integrated social protection systems

55. Discriminatory policies and practices, together with unequal power relations, continue the exclusion of the most marginalized girls and boys from access to quality education. The experiences of marginalized children underline the damage that can be inflicted by bad policies in many countries. Education authorities persistently discriminate against children from marginalized communities, denying them their right to education. Addressing the root causes of discrimination and poverty is fundamental to creating a basis for all children to benefit equally from educational programmes. Strong social protection policies and programmes are essential to achieving equity for children, and are also the bedrock of national human and economic development. Entrenched disparities, together with recent trends, have brought into stark focus the importance of inclusivity and an integrated approach. Integrated social protection systems, which take a multisector approach and invest in sustainable national systems, are best positioned to foster children's resilience in the face of threats to their health and well-being, such as can easily occur in the context of poverty, climate change, epidemics, conflicts and urbanization.[85]

Finance free, quality education available and accessible to all children

56. States must ensure universal access to free quality education, at least at the primary level. While States are not required to deliver education themselves, almost all countries have extensive publicly funded and managed education systems, although education continues to receive an inadequate share of government spending in many countries. The indicative benchmark for an education budget set by the Education for All Fast-Track Initiative (now known as the Global Partnership for Education) was 20 per cent of the total budget. This is widely accepted as a reasonable target, particularly in countries with large numbers of school-age children and low enrolment rates. However, some countries allocate less than 10 per cent of their budget to education.[86] Furthermore, resources allocated to education often disproportionately benefit the wealthiest children. Financing for education as part of humanitarian aid also requires urgent attention. Conflict-affected countries are the most off-track in reaching basic educational outcomes, yet education is one of the most underfunded sectors in the humanitarian appeals process, currently

[84] See UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13).

[85] See www.unicef.org/socialprotection/framework/files/Social_Protection_Strategic_Framework_7Mar12_low_res.pdf.

[86] Of 24 low-income countries with data, only 5 allocated more than 20 per cent of the government budget to education. See UNICEF, *The Investment Case for Education and Equity* (New York, 2015), pp. 49-50.

receiving approximately 2 per cent of overall aid.[87] There is a need to evaluate the extent to which the distribution of educational resources is achieving equitable outcomes for children and can be readjusted accordingly, so that resources are allocated where they are most needed. This can be done by tracking and reporting on spending policies in order to strengthen transparency and accountability, with recognition of the need to adopt special measures targeted at addressing inequity in educational access and quality.

Prevent and address violence in and around schools

57. States must provide children with access to confidential counselling and complaints and reporting mechanisms if they are subjected to violence in school. Likewise, school staff must be able to recognize cases of violence and, for serious violent incidents in schools, there must be a clear contact protocol for police and other authorities.[88] A road map to better combat school-related gender-based violence must be developed in collaboration with United Nations agencies and other partners.[89] It is also crucial to strengthen research and consolidate data systems on all forms of violence against children, including physical, psychological, sexual and gender-based violence and bullying. Where corporal punishment is not effectively banned in national legislation, States must enact and enforce legislation on the protection of children, and train teachers and school officials in the use of positive rights-based disciplinary measures.

Protect schools from violence and attack

58. Since more than 50 per cent of out-of-school children live in conflict-affected countries, immediate measures safeguarding the right to education for children in conflict and emergency situations are necessary.[90] Regarding attacks on schools, States are called upon to take decisive and immediate action against persistent perpetrators of such violations, including by means of national and international justice mechanisms, and mixed criminal courts and tribunals, with a view to ending impunity.[91] School staff and students should be made aware of the prohibition against occupation, use or attacks on schools, including how to report violations through the monitoring and reporting mechanism on grave violations against children, where applicable.

Strengthen partnerships

59. The post-2015 Sustainable Development Goals present new opportunities and challenges for the realization of the right to education that will require innovative collaboration. Existing partnerships such as the United Nations Girls' Education

[87] See UNESCO, *Global Monitoring Report 2012: Financing Education for All* (Paris, 2012), p. 151. See also Global Education Cluster, "Education cannot wait: financing education in emergencies — challenges and opportunities" (6 June 2013), available from http://educationcluster.net/?get=001687%7C2014/06/Education-Cannot-Wait-2013-Analysis.pdf.

[88] Office of the Special Representative of the Secretary-General on Violence against Children, *Tackling violence in schools: a global perspective — bridging the gap between standards and practice* (New York, March 2012), p. 40.

[89] UNESCO, *Education for All Global Monitoring Report, Education for All 2000-2015* (see footnote 13), pp. 189-217 (Goal 6, quality of education).

[90] See UNICEF, *The investment case for education and equity* (New York, 2015).

[91] See Security Council resolution 1998 (2011).

Initiative, the Global Partnership for Education, the Global Business Coalition for Education and the Global Education First Initiative have achieved significant results in improving educational access for girls and other marginalized groups, and must be reinforced.

60. There is tremendous potential to leverage existing resources within educational institutions to ensure access to education and strengthen quality. Partnerships with the private sector and universities have extensive capacity for theoretical and action-oriented research that can support the development at the local level of monitoring frameworks for quality education. Partnerships should also be developed to strengthen online collaboration, distance learning and other innovations, guided by a human rights-based approach. Finally, strengthening South-South and North-South cooperation for capacity development, research, monitoring and evaluation should be directed towards addressing critical components of realizing the right to education, such as achieving equity in educational access, improving quality and documenting good practices.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights and international solidarity**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Independent Expert on human rights and international solidarity, Virginia Dandan, submitted in accordance with Human Rights Council resolution 26/6.

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Report of the Independent Expert on human rights and international solidarity

Summary

The present report is submitted to the General Assembly by the Independent Expert on human rights and international solidarity, Virginia Dandan, in accordance with Human Rights Council resolution 26/6. In a previous report submitted to the Human Rights Council in 2015 (A/HRC/29/35), the Independent Expert began her exploration of how international solidarity, as a principle underpinning international law, should be understood within the context of the proposed draft declaration on the right to international solidarity. Building on that report, in the present report the Independent Expert examines preventive solidarity and international cooperation, the constituent components of international solidarity, within the context of the proposed draft declaration on the right of peoples and individuals to international solidarity.

As mandated by the Human Rights Council in its resolution 26/6, the text of the proposed draft declaration is the focus of a series of regional consultations being conducted in 2015 and early 2016. Two consultations have been held to date: one with the group of Western European and other States and the group of Eastern European States in Geneva in April 2015, and the other with the group of African States in Addis Ababa in July 2015. The next regional consultations will be held with the group of Latin American and Caribbean States in Panama City in September 2015, and with the group of Asia-Pacific States in Suva in November 2015.

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I. Introduction

1. The present report highlights preventive solidarity and international cooperation as the constituent components of international solidarity within the context of human rights, focusing on their international normative bases and as exemplified by the practices of States. The topic is fully consistent with the mandate of human rights and international solidarity as established by the Commission on Human Rights, the predecessor to the Human Rights Council. It is also in keeping with the request by the Council, contained in its resolution 9/2, for the Independent Expert to further develop guidelines, standards, norms and principles with a view to promoting and protecting the right of peoples and individuals to international solidarity. As such, while the Independent Expert acknowledges with deep respect the many time-honoured forms of solidarity firmly enshrined and practiced within the diverse cultural traditions all over the world, as well as the historical habits of cooperation between peoples that have been nurtured over the course of many generations, those practices are not included in the following discussion, the scope of which must remain within the bounds of the proposed draft declaration on the right of peoples and individuals to international solidarity (A/HRC/26/34, annex). In more practical terms, this report will also be a useful reference in the ongoing series of regional consultations on the proposed draft declaration being held in 2015 and early 2016 pursuant to the decision of the Human Rights Council in that regard, as contained in its resolution 26/6. The outcome of those regional consultations, which will include detailed and critical analysis of the draft declaration, will be the subject of subsequent reports by the Independent Expert.

II. International normative basis for international solidarity, together with its constituent components: preventive solidarity and international cooperation

2. This part of the report briefly describes a framework that links international law and international solidarity and, by extension, the constituent components of the latter — preventive solidarity and international cooperation — that are explored herein. The framework derives from three general sources: the Charter of the United Nations; the Universal Declaration of Human Rights and the international human rights treaties; and the multitude of commitments relating to human rights and development that have been adopted by States during United Nations international conferences and summits and in resolutions of the General Assembly.

3. The Universal Declaration of Human Rights, being the antecedent to the international human rights treaties, holds a privileged place, preceded only by the Charter of the United Nations, as set out in the discussion below.

A. Charter of the United Nations

4. Article 1 of the Charter of the United Nations, which calls for collective measures for the prevention and removal of threats to peace, implicitly anchors the Organization in the principle of international solidarity. Article 1.3 specifically states that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or

humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms. Similarly, Article 55 asserts that the Organization shall promote higher standards of living, full employment and conditions of economic and social progress and development, solutions to international economic, social, health, and related problems, international cultural and educational cooperation and universal respect for, and observance of, human rights and fundamental freedoms. Furthermore, Article 56 can be understood as establishing international legal obligations regarding international cooperation as the Members of the Organization pledge to take joint and separate action, in cooperation with the Organization, for the achievement of the purposes set forth in Article 55, which includes promoting solutions to international economic, social, health and related problems, as well as international cultural and educational cooperation.

B. Universal Declaration of Human Rights

5. Article 22 of the Universal Declaration of Human Rights encompasses the concepts of preventive solidarity and international cooperation, stating that everyone "has the right to social security and is entitled to realization, through national effort and international cooperation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality". Social security is both a safeguard and a safety net aimed at, on the one hand, mitigating social and economic risks related to, for example, health, livelihood and disability, and, on the other hand, providing assistance to those who are unable to fend for themselves, thus having both preventive and reactive functions. Article 28 provides that everyone "is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized", which evokes the vital role of preventive solidarity and international cooperation in the creation of that order.

C. International human rights treaties

6. Preventive solidarity and international cooperation, the essential features of international solidarity, are safeguards of the freedoms and entitlements already codified in existing international human rights treaties on economic, social and cultural rights, civil and political rights, the right to development and international labour standards. Ratification of such treaties constitutes explicit consent by States to be bound by treaty obligations to respect, protect and fulfil human rights and to take the necessary steps to prevent and put an end to human rights violations, denials and neglect. Every State that ratifies such a treaty thus becomes party to a collective and universal preventive solidarity endeavour.

7. Article 2.1 of the International Covenant on Economic, Social and Cultural Rights provides that States parties "take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized" in the Covenant. The centrality of both prevention and cooperation is affirmed in article 11.1 of the Covenant, which provides that States parties:

> recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

8. Article 22 of the International Covenant stipulates that the Economic and Social Council may bring to the attention of the relevant United Nations bodies any matters arising out of the reports submitted under the Covenant "which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective, progressive implementation of the present Covenant". In the same context, article 23 goes a step further by specifying that the methods for international action for the achievement of the rights recognized under the Covenant include the "conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned". That provision can be interpreted as establishing an approach or methodology that should inform international cooperation and agreements between and among States and, in effect, also supports the principle of extraterritorial obligations of States in the area of economic, social and cultural rights.

9. The provisions of the International Covenant underline the role of international cooperation and assistance in facilitating the fulfilment of human rights. In that regard, the Committee on Economic, Social and Cultural Rights has emphasized that, in accordance with Articles 55 and 56 of the Charter of the United Nations, with well-established principles of international law, and with the provisions of the Covenant itself, international cooperation is an obligation of all States.[1] The provisions are reiterated in article 14 of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights regarding international assistance and cooperation and are further supported by article 14.3, which states that a "trust fund shall be established ... with a view to providing expert and technical assistance to States Parties ... for the enhanced implementation of the rights contained in the Covenant, thus contributing to building national capacities in the area of economic, social and cultural rights".

10. The Convention on the Rights of the Child, in its preamble, considers that solidarity is among the ideals proclaimed in the Charter. Article 4 of the Convention provides that, "with regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation. Thus, as noted in general comment No. 5 of the Committee on the Rights of the Child, when States ratify the Convention, they take upon themselves obligations not only to implement it within their jurisdiction, but also to contribute, through international cooperation, to global implementation. In the same general comment, it was emphasized that implementation of is a cooperative exercise for the States of the world, which explicitly encompasses international cooperation and the extraterritorial nature of the human rights obligations of States.

[1] E/1991/23, annex III, general comment No. 3, The nature of States parties obligations, para. 14.

11. Similarly, it is stated in article 4.2 of the Convention on the Rights of Persons with Disabilities that, with regard to economic, social and cultural rights:

> Each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

12. Article 32 of the Convention is a comprehensive provision on international cooperation. Pursuant to that article, States parties agreed to recognize the importance of international cooperation and its promotion in support of national efforts for the realization of the purpose and objectives of the Convention, and to undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities.

D. United Nations declarations in the field of human rights and development

13. The preamble of the proposed draft declaration refers to the overwhelming manifestation of international solidarity expressed by States in the "multitude of commitments and promises relating to human rights and development" and cites a few examples, most notably the Declaration on the Right to Development of 1986, the Vienna Declaration and Programme of Action of 1993, the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development of 1995, the Beijing Declaration and Platform for Action of 1995 and the Millennium Declaration of 2000.

14. Although a complete listing and examination of all the relevant declarations of the United Nations is beyond the scope of this report, the Independent Expert reiterates and reaffirms that, pursuant to Articles 55 and 56 of the Charter, in order to achieve the purposes of the United Nations as set out therein, there is a need for cooperation among States. Three illustrative examples are presented below.

15. Pursuant to the fourth principle of the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV), annex), States have the duty to cooperate with one another in accordance with the Charter, and, in particular:

(a) States shall cooperate with other States in the maintenance of international peace and security;

(b) States shall cooperate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

(c) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention.

The seventh principle of the Declaration requires that "States shall fulfil in good faith the obligations assumed by them in accordance with the Charter".

16. The General Assembly, in the closing paragraph of the Declaration, concluded with the following statement: "The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles." This strongly worded declaration sets forth specific obligations for States arising from the Charter, which is in itself an instrument of international solidarity.

17. In the preamble to the 1986 Declaration on the Right to Development, the General Assembly recognized the principles and values relating to collective acts of cooperation and solidarity on which the operative paragraphs were based. Article 2 of the Declaration focuses on three parties: the human person, all human beings, and States — and the relationship between them. Articles 3 and 4 emphasize the duty of States to cooperate in ensuring development and in eliminating obstacles to development. In particular, article 4 makes it clear that sustained action is required to facilitate progress in developing countries, and that "as a complement to the efforts of developing countries, effective international cooperation is essential in providing these countries with the appropriate means and facilities to foster their comprehensive development". It has been observed that the real basis of the right to development is the obligation to demonstrate solidarity, which is linked to articles 1 and 28 of the Universal Declaration of Human Rights.[2]

18. The determination on the part of States to achieve substantial progress in human rights undertakings through increased and sustained international cooperation and solidarity is expressed in the preamble to the 1993 Vienna Declaration and Programme of Action, which also states that it is the aspiration of all peoples to have an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, rule of law, pluralism, development, better standards of living and solidarity.

19. All of the above-mentioned instruments require international solidarity for their effective implementation, and the same holds true for the attainment of goals, commitments and decisions made collectively by States, as expressed in the outcome documents from a multitude of United Nations world conferences and summits. One such outcome document, "The future we want", of the United Nations Conference on Sustainable Development, was agreed upon by heads of State and Government in Rio de Janeiro in 2012. The draft outcome document of the United Nations summit for the adoption of the post-2015 development agenda, "Transforming our world: the 2030 Agenda for Sustainable Development",[3] contains the 17 goals that constitute the commitment of the international community aimed at, inter alia, ending poverty, hunger and gender inequality, achieving food security and ensuring water and sanitation for all, building resilient infrastructure and stemming damage caused by the adverse impact of climate change. Moreover, at the

[2] See Puvimanasinghe, S. (2011), "International solidarity in an interdependent world: Realizing the Right to Development", Office of the United Nations High Commissioner for Human Rights.

[3] https://sustainabledevelopment.un.org/post2015/transformingourworld.

end of 2015, a new globally binding agreement that responds to climate change issues is expected to be negotiated during the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.

E. Human rights and the solidarity framework at the regional level

20. A number of regional treaties also incorporate the principle of solidarity and affirm the respect, protection and fulfilment of human rights, including:

(a) The Constitutive Act of the African Union, adopted in 2000, expresses in its preamble the determination to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States. Article 3 enumerates the objectives of the Union, including to encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights, to promote and protect human and peoples' rights, in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;[4]

(b) The Arab Charter of Human Rights, adopted in 1994, affirms the principles contained in the Charter of the United Nations, the Universal Declaration of Human Rights, the two international covenants on human rights and the Cairo Declaration on Human Rights;

(c) The Charter of the Association of Southeast Asian Nations (ASEAN), adopted in 2007, expresses the will of the member States of the Association to respect and protect human rights and contains a call for coordination and cooperation on the basis of unity and solidarity. In 2012, ASEAN member States also adopted the ASEAN Human Rights Declaration, in which they reaffirmed their commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action and other international human rights instruments to which ASEAN member States are parties;

(d) The Charter of Fundamental Rights of the European Union brings together in a single document the fundamental rights protected within the Union. The rights and freedoms contained in the Charter are: dignity, freedoms, equality, solidarity, citizens' rights and justice. The Charter was proclaimed in 2000 and became legally binding on the member States of the Union with the entry into force of the Treaty of Lisbon in December 2009.[5] Solidarity is the focus of article 188R of the Treaty of Lisbon, in which it is specified that "the Union and its member States shall act jointly in a spirit of solidarity if a member State is the object of a terrorist attack or the victim of a natural or man-made disaster". It is significant to note that no country has ever joined the European Union without first belonging to the Council of Europe. The Council is the continent's leading human rights organization. It includes 47 member States, 28 of which are members of the European Union. All Council member States are signatories to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The work of the Council has resulted in standards, charters and conventions that facilitate cooperation between European countries;[6]

[4] See http://www.au.int/en/sites/default/files/Constitutive_Act_en_0.htm.
[5] See http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm.
[6] See at http://www.coe.int/en/web.

(e) The Charter of the Organization of American States (OAS) was adopted in Bogota in the1948. It is stated in article 1 of the Charter that the goal of the member States in creating OAS was "to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration and to defend their sovereignty, their territorial integrity and their independence".[7] The main pillars of OAS are democracy, human rights, security and development. The American Convention on Human Rights, adopted in 1969, is based on the principles of the Charter of the Organization of American States, the American Declaration on the Rights and Duties of Man and the Universal Declaration of Human Rights. The Convention also established the Inter-American Commission on Human Rights.[8]

III. Preventive solidarity and international cooperation in the context of the proposed draft declaration on the right to international solidarity

21. International solidarity is most often invoked only in the aftermath of calamities such as humanitarian catastrophes, natural disasters, epidemics and, sometimes, in the face of acts of terrorism and other forms of violence. It is indeed in the face of such fearsome and tragic disasters when the need for "international solidarity" is understood and dramatically amplified. The proposed draft declaration specifically provides that international solidarity shall be understood as the convergence of interests, purposes and actions between and among peoples, individuals, States and international organizations to achieve the common goals that require international cooperation and collective action in order to foster peace and security, development and human rights. In that regard, it is necessary that, at all times, States respect the human rights standards set forth in the international human rights treaties that they have ratified and comply with their existing treaty obligations. The Independent Expert emphasizes that international solidarity should not, therefore, be misconstrued as relating in any way to collective action by States that results in the contravention of any of the international human rights treaties to which they are parties. Nor is international solidarity related to any form of collective action undertaken by non-State actors, the outcome of which may, for example, cause harm and violence or perpetuate injustice, inequality, discrimination and exclusion.

22. The proposed draft declaration makes the important point that preventive solidarity and international cooperation are components of international solidarity. Preventive solidarity is the substantive component of international solidarity relating to the human rights standards and obligations that must inform collective initiatives, And international cooperation is the operational component through which the initiatives of preventive solidarity are implemented. As such, international solidarity is achieved only through? the confluence of these elements.

[7] See at https://treaties.un.org/doc/Publication/UNTS/Volume%20119/volume-119-I-1609-English.pdf.

[8] http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm.

A. Preventive solidarity

23. The Independent Expert views preventive solidarity and reactive solidarity as two sides of the same coin. She emphasizes that the true value of international solidarity lies in the processes that inform collective objectives and acts of preventive solidarity and in their potential outcomes in the long-term. In the long-term, policies and measures can be put in place and implemented to ensure that human rights standards inform the entire process and address the root causes of the denial and violation of human rights where they exist. Preventive solidarity is the normative framework for proactive and purposeful collective acts that anticipate and/or seek to prevent harmful situations before they occur, or to mitigate their adverse consequences once they do occur. Coordinating the implementation of pre-emptive measures to avoid the grave consequences of natural disasters and the creation of national and international reserves for prompt and adequate responses in an emergency are examples of the process of activating preventive solidarity. Oftentimes, the extent to which such preventive processes are effective is only apparent over a period of time. This may explain why preventive solidarity is less recognized and appreciated. On the other hand, reactive solidarity has a shorter time horizon and is often temporary and palliative in the sense that it is mobilized only after an adverse event has occurred. It is not surprising that reactive solidarity is a more familiar form of solidarity, triggered as it is by specific and dire events that require urgent action to assist individuals and populations in distress.

24. In the context of the proposed draft declaration on the right to international solidarity, it is important to stress that both preventive and reactive solidarity should be targeted not only towards alleviating suffering and mitigating further damage, but more importantly, towards effectively ensuring the respect, protection and fulfilment of the range of human rights, whether economic, social and cultural or civil and political, particularly through collective actions by States in compliance with their international human rights obligations under international law. In the case of peoples, individuals and civil society, and their organizations, the proposed draft declaration requires them to complement the efforts of States through their activities in this regard.

25. The origin of the term "preventive solidarity", and how it came to be used in the documents of the Human Rights Council in relation to the issue of rights and international solidarity, is unclear. In its resolution 15/13, the Council explicitly referred to the preventive dimension of international solidarity when it affirmed that:

> Much more is needed, owing to the magnitude of global and local challenges, the alarming increase in natural and man-made disasters, and the continuing rises in poverty and inequality; ideally, solidarity should be preventive rather than simply reactive to massive irreversible damage already caused, and must address both natural and man-made disasters.

26. Subsequently, the term "preventive solidarity" has since been employed by the Council in its resolutions, as well as by the previous Independent Expert, and by some stakeholders that support the mandate of human rights and international solidarity.[9] The present Independent Expert has taken the idea of preventive

[9] See, for example, Council resolutions 18/5, 21/10 and 23/12.

solidarity further, by qualifying it as a constituent component of international solidarity. The impact of preventive solidarity is most evident in the practices of States that respect, protect and fulfil human rights in compliance with the minimum essential obligations stipulated by international human rights treaties.

27. In his report to the fifteenth Human Rights Council (A/HRC/15/32), the previous Independent Expert observed that preventive solidarity must address "the core need for justice and equity at the national and international levels; this is the only long-term, sustainable solution to common challenges faced by the international community". He advocated that "solidarity *ante factum* is preferable to solidarity *post factum*, as it aims at tackling the root causes of poverty on the basis of the wisdom that prevention is better than cure". Solidarity before the event is closely connected with various issues, including world trade, the reform of international institutions, civil society participation, world peace, intellectual property rights, agricultural policies and global migration, that are deliberated upon within the United Nations and other forums.

28. In article 3 (a) of the proposed draft declaration, preventive solidarity is characterized as:

> Collective actions undertaken to safeguard and ensure the fulfilment of all human rights ... Preventive solidarity is essential to achieving both intergenerational and intra-generational solidarity and is a vital component of the duty of States to provide and seek international cooperation and assistance in the implementation of their human rights obligations, particularly their core obligations.

29. This formulation is being discussed further at the regional consultations mentioned previously and, although it is anticipated that the formulation may be amended eventually, it seems, at this early stage, that the substance of preventive solidarity will remain as it is.

30. The post-2015 development agenda exemplifies preventive solidarity in th context of the proposed draft declaration. The preamble of the draft outcome document for the United Nations summit to adopt the post-2015 development agenda sets the tone of the agenda as a plan for people, the planet and prosperity, with all countries acting in "collaborative partnership". It reflects the resolve of world leaders "to free the human race from the tyranny of poverty and want and to heal and secure our planet" by shifting the world onto a sustainable path, embarking on a collective journey where "no one will be left behind". The agenda goes further than its predecessor, the Millennium Development Goals, beyond the "continuing development priorities such as poverty eradication, health, education and food security and nutrition" to include "a wide range of economic, social and environmental objectives".

31. The proposed agenda is guided by the Charter and international law, grounded in the Universal Declaration of Human Rights and informed by other instruments such as the Declaration on the Right to Development. It contains reaffirmation of all of the principles of the Rio Declaration on Environment and Development, including the principle of common but differentiated responsibilities. The agenda envisions a "world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination ... permitting a full realization of human potential and contributing to shared prosperity".

32. Most important, in the light of the proposed draft declaration, the following reference is made to the 17 goals and 169 targets of the sustainable development agenda:

> Never before have world leaders pledged common action and endeavour across such a broad and universal policy agenda. We are setting out together on the path towards sustainable development, devoting ourselves collectively to the pursuit of global development and of a "win-win" cooperation, which can bring huge gains to all countries and all parts of the world ... for today's generation and for future generations. In doing so, we reaffirm our commitment to international law and emphasize that the Agenda will be implemented in a manner that is consistent with the rights and obligations of States under international law.

33. The above quotations have been reproduced because of their relevance to understanding the notion of preventive solidarity as a component of international solidarity. Implementation of the sustainable development agenda will begin in January 2016. The agenda, consisting of the 17 sustainable development goals and the associated targets, constitutes a collective plan of action for preventive solidarity. In endorsing the agenda, world leaders will commit themselves to implementing the sustainable development goals in a manner that is consistent with the rights and obligations of States under international law. The obligations of States under international law include their international human rights treaty obligations, which constitute the substance of preventive solidarity. Collective action through international cooperation will then be required to actualize international solidarity.

B. International cooperation

34. The collective act of preventive solidarity on the part of States, as described above, is a complement to the duty of international cooperation, which is premised on the reality that some States may not possess the resources necessary to comply with their human rights obligations, and should thus seek and consequently receive assistance in that regard from other States as well as from international organizations. That reality clearly demonstrates that the preventive value of international solidarity through international cooperation is essential and obligatory, rather than perfunctory and optional, particularly with regard to the capacity of a State to comply with its core obligations.

35. The notion of "core obligations" derives from general comment No. 3 of the Committee on Economic, Social and Cultural Rights (E/1991/23, annex III), which refers to the core obligation of States parties to satisfy the minimum essential levels of each of the rights protected by the International Covenant on Economic, Social and Cultural Rights. According to the Committee, when grouped together, the core obligations establish an international minimum threshold that all development policies should be designed to respect. It is particularly incumbent on all those who can assist to help developing countries respect that international minimum threshold[10] Core obligations are immediate and non-derogable, and they continue to exist even in times of conflict, emergency and natural disaster.[11] The immediacy of

[10] E/C.12/2001/10 (2001), para. 17.

[11] Ibid., para. 18.

core obligations is the reason why the Maastricht Principles on the Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights require States "prioritize core obligations to realize minimum essential levels of economic, social and cultural rights, and move as expeditiously and effectively as possible towards the full realization of economic, social and cultural rights".[12]

36. International cooperation as a duty is clear, as in the preceding paragraphs. In more recent practice, States, particularly members of the Organization for Economic Cooperation and Development (OECD), have committed to allocating 0.7 per cent of their gross national income to overseas development assistance. States should bear in mind that the duty of international cooperation should be implemented without conditionality and on the basis of mutual respect, in accordance with the purposes of the Charter and with due respect for the sovereignty of States, taking into account national priorities upon which all States have a right to freely decide. This is in consonance with international solidarity, bearing in mind the preamble of the proposed draft declaration that reaffirms international solidarity as a much broader concept, extending beyond aid, charity or humanitarian assistance. International solidarity includes the sustainability of international relations, especially in the economic field, equal partnerships and the equitable sharing of benefits and burdens.

Modes of international cooperation for development: North-South, South-South and triangular cooperation

37. The following discussion of the three modes of international cooperation for development is meant to be illustrative rather than extensive. The term "international cooperation for development" is used to narrow the meaning of international cooperation to its characteristics as the operational component of international solidarity, while at the same time connoting its purpose or intention, that is, for development. The three modes of international cooperation in question — North-South cooperation, South-South cooperation and triangular cooperation — are interlinked. These terms, which indicate the directional flow of assistance from origin to destination, have, over the years, become ever more salient.

38. In simple terms, North-South cooperation is the "traditional" form of international cooperation for development, which flows from developed to developing countries, while South-South cooperation is horizontal, flowing from one developing country to another. South-South cooperation is not a substitute for, but rather a complement to, North-South cooperation. North-South cooperation is based on historical responsibilities and on the difference in economic levels between the North and the South. Tripartite collaboration and South-South-North partnerships are known as triangular cooperation. Triangular cooperation is the result of technical cooperation among two or more developing countries (i.e., South-South) that is supported, through financial, technical or other means, by northern donors or by international organizations.

39. There is some confusion surrounding the meanings of "development assistance", "development cooperation" and other similar terms. The term "foreign aid" seems to be the most familiar, serving as a catch-all term indicating foreign assistance, specifically North-South assistance. In its broadest sense, foreign aid can

[12] https://www.fidh.org/IMG/pdf/maastricht-eto-principles-uk_web.pdf.

consist of all types of resources — physical goods, skills and technical know-how, financial grants or gifts, and loans at concessional rates — transferred from donors to recipients.[13] The "donor-recipient" dynamic has been the topic of numerous studies and analyses, as well as debates over the many issues, including conditionalities and so-called "tied aid". A narrower type of foreign aid flowing from rich countries to poor countries that helps to address human suffering or poverty and development is often referred to as "development aid" or "development assistance".

North-South cooperation

40. The most substantial work to develop a definition of aid has been carried out by the OECD Development Assistance Committee, which has considered only the part of overall aid provided by donor Governments to poor countries, which it referred to as "official development assistance", better known since then as ODA. The definition of ODA agreed upon by the Development Assistance Committee in 1969, and further refined in 1972, is as follows:

> ODA consists of flows to developing countries and multilateral institutions provided by official agencies, including state and local governments, or by their executive agencies, each transaction of which meets the following two criteria: (1) it is administered with the promotion of the economic development and welfare of developing countries as its main objective, and (2) it is concessional in character and contains a grant element of at least 25 per cent (calculated at a rate of discount of 10 per cent).[13]

41. This definition does not include all development aid, and it excludes funds raised and allocated by private organizations, non-governmental organizations or individuals. ODA from OECD member States mostly consists of North-South cooperation. The benchmark for the allocation of ODA agreed upon by OECD member States is 0.7 per cent of gross national income.

42. The international development cooperation activities of Norway, implemented by the Norwegian Agency for Development Cooperation, provide one example of North-South cooperation. In its fifth and most recent periodic report to the Committee on Economic, Social and Cultural Rights in 2012 (E/C.12/NOR/5), Norway provided information regarding its international cooperation activities. Norway informed the Committee that, in its budget for 2009, it had achieved its objective of allocating 1 per cent of its gross national income to ODA, exceeding the 0.7 per cent OECD benchmark. International human rights conventions form the normative basis for Norway's development policy, which seeks to promote human rights through development cooperation.

43. According to the report, peacebuilding, human rights and humanitarian assistance comprise one of the five main priorities of the development policy of Norway. Human rights obligations form the basis for dialogue with the Governments of the various recipient countries, with a view to enhancing their ability to protect and promote human rights. Potentially vulnerable and marginalized groups, such as children, women, persons with disabilities and indigenous peoples, are priority groups for Norwegian-funded development programmes and projects. Norway's contributions to the realization of economic, social and cultural rights in

[13] See Riddell, R., *Does Foreign Aid Really Work?*, Oxford University Press, New York (2008).

other countries are enumerated in the report. The relevant fields of Norway's international development cooperation engagement include health, education, housing, water, decent work, humanitarian assistance, climate change and sustainable development.

South-South and triangular cooperation

44. The global development cooperation landscape is changing rapidly. Developing countries and emerging economies have become key actors not only in trade and investment, but also in global and regional development. Since the adoption of the Buenos Aires Plan of Action for Promoting and Implementing Technical Cooperation among Developing Countries in 1978, South-South cooperation has been steadily gaining momentum and has shown encouraging trends. For the purposes of the present report, the Independent Expert cites the note by the Secretary-General containing the framework of operational guidelines on United Nations support to South-South and triangular cooperation (SSC/17/3), which draws on the outcome document of the High-level United Nations Conference on South-South Cooperation of 2009, to define South-South cooperation for development as:

> A process whereby two or more developing countries pursue their individual and/or shared national capacity development objectives through exchanges of knowledge, skills, resources and technical know-how, and through regional and interregional collective actions, including partnerships involving Governments, regional organizations, civil society, academia and the private sector, for their individual and/or mutual benefit within and across regions. South-South cooperation is not a substitute for, but rather a complement to, North-South cooperation.

45. In the same document, there is the following working definition of triangular cooperation:

> Triangular cooperation involves Southern-driven partnerships between two or more developing countries, supported by a developed country(ies) or multilateral organization(s), to implement development cooperation programmes and projects. Evidence shows that, in many instances, Southern providers of development cooperation require the financial and technical support and expertise of multilateral and/or developed-country partners in the course of assisting other developing countries. Northern partners also benefit by being able to take advantage of increased institutional capacity in the South and to increase the impact of their aid disbursements by leveraging the resources of multiple Southern partners. Developed countries have increasingly expressed strong support for this approach to development and a willingness to share their experience and lessons learned, as long as the triangular cooperation process is led and owned by Southern actors in order to achieve development results.

46. A comprehensive discussion of South-South cooperation, in all its diverse and multifaceted forms, is not possible in this report, and the same holds true for triangular cooperation. However, the key principles of South-South cooperation should not be overlooked. South-South cooperation is a common endeavour of peoples and countries of the South, based on shared experiences, common objectives, mutual respect and solidarity. It is guided by the principles of respect for

national sovereignty, ownership and priorities as defined by national development plans and strategies. It is a partnership among equals and free from conditionalities. It embraces a multi-stakeholder approach that includes non-governmental organizations, the private sector, civil society, academia and other stakeholders who work towards meeting development challenges and objectives in line with national development strategies and plans.

47. There are numerous examples of South-South cooperation which could be featured as examples in this report. The Independent Expert shares instead her first-hand account of the information she gathered in a country study visit to Brazil, where she observed the policies and practices of Brazil in its international development cooperation programmes that fall within the rubric of South-South cooperation and triangular cooperation (see A/HRC/23/45/Add.1). Brazil is one of the few countries in the world to have achieved most of the Millennium Development Goals ahead of the 2015 deadline.[14]

48. The principles set forth in the Federal Constitution of Brazil, such as national independence, the prevalence of human rights, self-determination, non-intervention and cooperation among peoples for the progress of mankind, which govern the international relations of Brazil, have also shaped the features of its cooperation activities. Brazil seeks to contribute to the social and economic progress of other countries through the sharing of lessons learned, knowledge gained from successful experiences and best practices. Brazil makes use of solutions created and developed domestically to support other countries facing similar difficulties in overcoming obstacles to their development.

49. Brazilian cooperation is based on requests received from other countries, with paramount consideration given to their specific needs, and in response to humanitarian appeals from international specialized agencies. There are no conditions imposed and it is not profit-oriented. The cooperation is driven by solidarity and adheres to the requirements of the Constitution of Brazil relating to non-intervention, respect for sovereignty, self-determination and human rights. An important feature of Brazilian technical cooperation is that both partners learn from each other in the exchange of experiences and knowledge, affirming "reciprocal solidarity" between peoples. It is a participatory engagement in which partner countries are not passive recipients but are actively involved from the initial stage of negotiation, thus ensuring that the cooperation methodology is appropriate to the context of local realities.

50. Agriculture is a major field of Brazil's cooperation with Southern partners. The Brazilian Agricultural Research Corporation, under the Ministry of Agriculture, Livestock and Food Supply, has been one of the most important actors in the country's technical cooperation in agriculture. Its mission is to carry out research and develop innovations in the search for feasible solutions to challenges in the sustainable development of agriculture for the benefit of Brazilian society. The Corporation's work is key to the success of Brazilian tropical agriculture, which has motivated countries with similar problems and challenges to seek information and partnerships with it. International cooperation has been crucial to the establishment and consolidation of the Corporation, which is currently considered to be the most

[14] United Nations Development Programme, "Millennium Development Goals: Achieving the Millennium Development Goals with Equality in Latin America and the Caribbean: Progress and Challenges", August 2010.

advanced tropical agriculture research institute in the world. The Corporation houses 46 research centres and is a major conduit for the cooperation of Brazil with a number of countries to transfer its experiences and technology and to adapt these to local conditions in partner countries. The sharing of best practices between Brazil and developing countries expands the geographic scope of Brazilian cooperation and introduces policies and programmes implemented successfully in Brazil to lift its people out of poverty. Aside from agriculture, the key areas of Brazil's international cooperation for development are food security and nutrition, health, education and vocational training, with partner countries, including the Portuguese-speaking African countries: Angola, Cabo Verde, Guinea-Bissau, Mozambique and Sao Tome and Principe. The key focus for Asian cooperation projects is in East Timor and, more recently, in four of the least developed countries: Afghanistan, Cambodia, Lao People's Democratic Republic and Myanmar.

51. Triangular cooperation, as defined above, complements South-South cooperation agreements, with a third partner providing much needed financial support. Triangular cooperation programmes usually involve a more complex process of coming to an agreement between partners. Brazil implements triangular technical cooperation guided by the same principles that inform its South-South cooperation. Triangular cooperation makes it possible to match the comparative advantage of South-South cooperation with that of other development partners (bilateral and multilateral), leveraging the impact of knowledge-sharing between developing countries. These factors result in a greater positive impact in fostering local development processes.

52. Brazil and its partners in South-South cooperation have implemented or are implementing triangular cooperation agreements with the United States of America, the European Union and its members, Japan, and with countries in Africa and in Latin America and the Caribbean. United Nations agencies, including the Food and Agriculture Organization of the United Nations, the International Labour Organization, the United Nations Population Fund and the World Food Programme, are also playing an important role in Brazil-led triangular cooperation.

53. Another example of triangular cooperation is the partnership of the United Nations Children's Fund (UNICEF) in support of a South-South cooperation programme involving Cambodia and development partners. The objective of the triangular partnership programme, implemented in 2007, was to improve the technical expertise of senior Government officials through appropriate training courses. The UNICEF-supported programmes for Cambodia included:

(a) Participation by officials from the Ministry of Planning Youth and Sports in a course in educational statistics, reporting and planning at the National University of Education, Planning and Administration in India. The University is viewed as a leading centre of excellence for education planning, with a specialty in developing countries. In 2008, the Royal University of Phnom Penh established a masters degree programme in education programming, which may further South-South cooperation through the training of senior education sector officials;

(b) A study tour of government institutions in India for Cambodian officials. The study tour allowed the participating officials to learn from India's experiences in government administration with a view to applying those lessons in Cambodia;

(c) Participation of government teachers in a training programme on child-friendly schools, taught in an annual training programme for Asia-Pacific regional participants in Thailand. Thailand has become the regional hub for training in the child-friendly school approach;

(d) Participation of by officials from the Ministry of Education, Youth and Sports and the Province Office of Education in a bilingual education conference in Bangkok that brought together regional experts and practitioners in the field of bilingual and multilingual education. As a result of the conference, bilateral collaboration developed between Timor-Leste and Cambodia. A delegation from Timor-Leste also visited Cambodia in 2009 as part of the same programme;

(e) Participation of educators from the Ministry of Education, Youth and Sports in a regional early childhood education specialist training seminar in Singapore. The Government of Singapore hosted an annual early childhood education "train the trainer" course. The goal of the course was to equip participants with the practical skills needed to conduct teacher-training programmes in early childhood development in their own countries. As a Government-to-Government initiative, this seminar facilitated bilateral and regional cooperation in early childhood development.

IV. Conclusion and recommendations

54. **The Independent Expert reiterates that preventive solidarity and international cooperation are the constituent components of international solidarity. Preventive solidarity is the substantive component of international solidarity relating to the human rights standards and obligations that must inform collective agreements and initiatives. International cooperation is the operational component, through which preventive solidarity agreements and initiatives are implemented. As such, international solidarity is actualized only through the confluence of both preventive solidarity and international cooperation.**

55. **The proposed draft declaration on the right to international solidarity is the focus of attention at the ongoing regional consultations being held in 2015 and early 2016. It is symbolic and auspicious that these consultations will take place at nearly the same time as two major United Nations events, namely the United Nations summit for the adoption of the post-2015 development agenda and the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, at which two documents that will affect the future of human development are to be adopted by Member States. In this regard, the Independent Expert emphasizes that the most important message of the present report is that international solidarity is vital and crucial to the achievement of the sustainable development goals, which will take effect in January 2016, and to the climate agreement to be forged at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.**

56. **The present report clarifies the content of international solidarity in the context of the United Nations, and a more careful reading would bring to the fore the reasons behind the claim that international solidarity is indispensable the promise of transforming our world by 2030. Although the proposed draft**

declaration on the right to international solidarity has not yet been adopted, it already has the potential to be used as a powerful tool in these challenging and disturbing times.

57. There is no single country in the world that is spared from the global threats of the twenty-first century. Although it is true that States are responsible for national implementation of their human rights obligations, our globalized world has become more and more interdependent, and no country, whether wealthy or poor, can surmount its human rights challenges alone and without assistance in one form or another from the international community. International cooperation as a duty is a clear recognition of that interdependence. States that recognize international cooperation as a duty acknowledge the universality not only of human rights but of humanity itself, and realize that what happens to one State has repercussions for the well-being of the entire planet.

58. The Independent Expert respectfully submits that the time for international solidarity has come and calls on the States Members of the United Nations to explicitly recognize the value of international solidarity to its operations. She requests their cooperation in the ongoing regional consultations and asks that they claim ownership of the draft declaration through the active participation of their delegations and Governments at these regional consultations. The Independent Expert further requests full support for and cooperation with her activities and other efforts to promote the recognition of international solidarity not only as a principle but as a right of peoples, individuals and States.

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Report of the International Criminal Court

Information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court

Report of the Secretary-General

Summary

The present report is submitted pursuant to paragraph 12 of General Assembly resolution 69/279, by which the Assembly requested the Secretary-General to continue to include information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court in a report to be submitted to the Assembly at its seventieth session.

* A/70/150.

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1. Article 3 of the Relationship Agreement between the United Nations and the International Criminal Court provides as follows: "The United Nations and the Court agree that, with a view to facilitating the effective discharge of their respective responsibilities, they shall cooperate closely, whenever appropriate, with each other and consult each other on matters of mutual interest pursuant to the provisions of the present Agreement and in conformity with the respective provisions of the Charter and the Statute."

2. During the period from 1 July 2014 to 30 June 2015, the United Nations cooperated extensively with the Court pursuant to the provisions of the Agreement. In October 2014, the Organization marked the tenth anniversary of the entry into force of the Agreement. It continued to work closely with the Court to further strengthen its relationship and to ensure the effective implementation of the Agreement.

3. In the field of institutional relations, addressed in chapter II of the Agreement, the United Nations provided to the Court a range of services and facilities, including reimbursable loans; satellite communications services; payroll costs for staff assigned to work exclusively on matters pertaining to the Court; access to the United Nations System Electronic Information Acquisition Consortium; field security services; air and ground transportation services for Court personnel and equipment; provision of laissez-passer and certificates; and training services, including access to language proficiency examinations for Court staff members. The services were all provided on a reimbursable basis in accordance with the Agreement and General Assembly resolution 58/318.

4. In the field of cooperation and judicial assistance, addressed in chapter III of the Agreement, the Organization provided extensive assistance to the Court in the period under review, in particular in the form of access to the Organization's records and archives and the making available of a number of United Nations personnel for interview by the prosecution in connection with certain situations before the Court and with certain situations under preliminary examination by the Prosecutor. Requests for testimony by several United Nations personnel received during the reporting period were accommodated. The United Nations stood ready to assist the Court with a proposed in situ hearing in the Democratic Republic of the Congo, although the Presidency subsequently decided not to authorize it. A memorandum of understanding for cooperation between the Court and the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic is being finalized.

5. In addition to cooperation extended by the United Nations to the Court pursuant to the provisions of the Agreement, the United Nations makes every effort to refrain from any actions that would frustrate the activities of the Court and its various organs, including the Prosecutor, or undermine the authority of their decisions. Further to the issuance by the Secretary-General of guidelines on contacts between United Nations personnel and persons who are the subject of arrest warrants or summonses issued by the Court (see A/67/828-S/2013/210), United Nations officials continued to implement the policy on essential contacts. In accordance with practice, the Legal Counsel informs the Prosecutor and the President of the Assembly of States Parties to the Rome Statute of any meetings with persons who are the subject of arrest warrants issued by the Court that are considered necessary for the performance of tasks mandated by the United Nations.